

UMASS/AMHERST



312066016580219

MASS. CD 1.2: M382/8

EXECUTIVE
OFFICE OF
COMMUNITIES &
DEVELOPMENT



William F. Ryan, Governor
A. Paul Chiodo, Lt. Governor
Mary L. Fiala, Secretary

GOVERNMENT DOCUMENTS
COLLECTION

OCT 6 1993

University of Massachusetts
Depository Copy

MASSACHUSETTS SMALL CITIES PROGRAM PROGRAM MANAGEMENT MANUAL

0

The Massachusetts Small Cities Program was established by the Executive Office of
of Deputy Secretary of State, and the
with Deputy Director for Planning and Development, and
and Deputy Director for Planning and Development, and
of the Massachusetts Small Cities Program.

Special thanks to the Small Cities staff for their assistance in the preparation of this
Manual, Maryann Glavin for her assistance in the preparation of this Manual.

January, 1992

931/219

EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



William F. Weld, Governor
A. Paul Cellucci, Lt. Governor
Mary L. Padula, Secretary

January, 1992

ACKNOWLEDGEMENTS

The Massachusetts Small Cities Program Management Manual has been designed under the direction of Deputy Assistant Secretary Toni Coyne Hall, with Deputy Director for Financial Operations Beth Jeppson, and Deputy Director for Program Operations C.y. Nunez-Ollero, of the Massachusetts Small Cities Program.

Special thanks to the Small Cities staff for their comments and assistance, particularly Marlene Bryant, Maryjane Gandolfo and Anne Bransfield, HUD graduate intern.

EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



William F. Weld, Governor
A. Paul Cellucci, Lt. Governor
Mary L. Padula, Secretary

January, 1992

ACKNOWLEDGEMENTS

The Massachusetts Small Cities Program Management Manual has been designed under the direction of Deputy Assistant Secretary Toni Coyne Hall, with Deputy Director for Financial Operations Beth Jeppson, and Deputy Director for Program Operations C.y. Nunez-Ollero, of the Massachusetts Small Cities Program.

Special thanks to the Small Cities staff for their comments and assistance, particularly Marlene Bryant, Maryjane Gandolfo and Anne Bransfield, HUD graduate intern.

Digitized by the Internet Archive
in 2012 with funding from
Boston Library Consortium Member Libraries

<http://archive.org/details/massachusettsma00mass>

MASSACHUSETTS SMALL CITIES PROGRAM
EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT
100 CAMBRIDGE STREET
BOSTON, MASSACHUSETTS 02202

STAFF DIRECTORY

Telephone Numbers:

617-727-0494
617-727-8690
617-727-7180

MANAGEMENT STAFF

Toni Coyne Hall, Director, Bureau of Small Cities
Beth Jeppson, Deputy Director for Financial Operations
C.y. Nunez-Ollero, Deputy Director for Program Operations
Carolyn Britt, Deputy Director for Economic Development
David Lawson, Housing Resources Coordinator

MSCP PROGRAM STAFF

Patricia Dervan	Lead Paint
Patricia Lang	Environmental Review
Cliff Risack	Labor Standards
Carol Wolfe	Relocation/Social Services

HOUSING RESOURCES PROGRAM STAFF

John Curran	Housing Development Support Program
Sumner Lederman	Rental Rehabilitation Program

ECONOMIC DEVELOPMENT

David Weiss	Economic Development Set Aside Program Director
Nancy Alexa	Economic Development Set Aside Program
Miryam Bobadilla	Downtown Revitalization Program Director
Jennifer Pardee	Downtown Revitalization Program
Mary Ruane	Downtown Revitalization Program
Mark Nardone	Economic Development Specialist

FISCAL STAFF

Carl Monaco	Community Development Fund/Housing Development Support Program
Don Studley	Community Development Fund/Economic Development Set-Aside, Innovative Fund
Patricia Wulftange	Community Development Fund

ADMINISTRATIVE STAFF

Maryjane Gandolfo

TABLE OF CONTENTS

CHAPTER	PAGE
<i>ACKNOWLEDGEMENT</i>	ii
<i>STAFF DIRECTORY</i>	iii
1.0 INTRODUCTION	1-1
THE MASSACHUSETTS SMALL CITIES PROGRAM	1-2
A. ELIGIBLE ACTIVITIES	1-2
B. INELIGIBLE ACTIVITIES	1-3
C. NATIONAL OBJECTIVE	1-3
D. THE COMMUNITY DEVELOPMENT FUND	1-4
i. The Performance Bonus Fund	1-4
ii. The Innovative Fund	1-5
iii. Emergency Grants	1-5
E. THE SET-ASIDES	1-5
i. The Housing Development Support Program (HDSP)	1-5
ii. The Economic Development Set-Aside Program (EDSA)	1-6
a. Revolving Loan Program	1-6
b. The Downtown Revitalization Program	1-6
F. THE RENTAL REHABILITATION PROGRAM (RRP)	1-7
2.0 PRELIMINARY GRANT REQUIREMENTS and ENVIRONMENTAL REVIEW REQUIREMENTS	2-1
2.1 THE GRANT AGREEMENT	2-1
1. General Conditions	2-1
2. Special Conditions	2-2
2.2 ENVIRONMENTAL REVIEW	2-2
A. Overview of Environmental Review Requirements	2-2

The Environmental Review Process	2-3
a. Start an ERR file	2-3
b. Designate an Environmental Certifying Officer (ECO)	2-3
c. Determine Scope of Environmental Review	2-4
1. Exempt Activities (See 24 CFR Part 58.34)	2-4
2. Categorically Excluded Activities (See 24 CFR Part 58.35)	2-5
3. Continuation of Previously Cleared Activities	2-7
4. Environmental Assessment Required	2-8
B. Special Considerations	2-11
1. Floodplain/Wetlands Requirements	2-11
1. Environmental Assessment	2-12
2. Floodplain Insurance	2-12
3. Additional Information	2-13
2. Historic Preservation	2-13
C. Exhibits	2-15
Exhibit I Designation of ECO	2-16
Exhibit II Finding of Exemption	2-17
Exhibit III Finding of Categorical Exclusion	2-18
Exhibit IV Statutory Checklist	2-19
Exhibit V Notice of Intent to Request Release of Funds (NOIRROF)	2-25
Exhibit VI Public Notice Distribution List	2-27
Exhibit VII Request of Release of Funds and Certification (RROF)	2-28
Exhibit VIII Finding of Continued Relevance	2-30
Exhibit IX Environmental Assessment Checklist	2-31
Exhibit X Finding of No Significant Impact (FONSI)	2-38
Exhibit XI Combined Notice (FONSI and RROF)	2-40
Exhibit XII Floodplain and Wetlands Notices	2-43
3.0 PROGRAM MANAGEMENT	3-1
3.1 RECORDKEEPING	3-1
A. Grant Filing System	3-2
B. Common Problems	3-5

3.2	CIVIL RIGHTS and EQUAL EMPLOYMENT OPPORTUNITY	3-6
A.	Program Design	3-6
B.	Employment Practices	3-6
C.	Contracts and Sub-Contracts	3-6
D.	List To Aid In Compliance With Civil Rights Requirements	3-14
3.3	FAIR HOUSING	3-16
A.	Massachusetts Commission Against Discrimination (MCAD)	3-16
B.	Pertinent Federal and State Regulations	3-16
3.4	RELOCATION AND DISPLACEMENT	3-18
A.	Uniform Relocation Act	3-18
B.	Section 104(d) of the Housing and Community Development Act of 1974,as amended	3-19
	POLICIES/PROCEDURES	3-19
1.	Planning	3-19
2.	Temporary Relocation for Residential Property Occupants	3-20
3.	Relocation Procedures for Permanent Displacement	3-21
a.	Manner of Notice	3-21
b.	Inform Occupant	3-21
c.	Work with Displaced Persons	3-22
d.	Make Referrals to Comparable Replacement Housing	3-22
e.	Move into Replacement Housing	3-23
f.	Process Claims and Make Payments	3-23
g.	Payment for Relocation Expenses	3-23
h.	Appeals	3-24
4.	Recordkeeping Requirements	3-24
5.	Business Relocation	3-25
3.5	AMENDMENTS	3-26
A.	Budget Transfers	3-27
B.	Budget Amendments	3-27
C.	Procedures for Submission of a Budget Amendment	3-27
D.	Program Amendments	3-28
E.	Amendments Requiring a Public Hearing	3-28
F.	Common Problems	3-29

CHAPTER	PAGE
3.6	WAIVERS 3-30
A.	When Submitted 3-30
B.	Requests Must Include 3-30
C.	Considerations 3-30
D.	Examples 3-30
3.7	EXTENSIONS 3-31
3.8	MONITORING 3-32
A.	Grantee Internal Monitoring 3-32
B.	Monitoring of Pre-Grant Activities 3-33
C.	Grantee Monitoring of Management Activities 3-33
D.	MSCP Monitoring 3-34
1.	Pre-Monitoring 3-34
2.	Program and Fiscal Monitoring 3-34
3.9	QUARTERLY REPORTS 3-36
A.	Certification by the Chief Elected Official or Duly Authorized Signatory . . . 3-36
B.	Activity Schedule 3-36
C.	Narrative Description 3-36
D-1	Breakdown of Finances 3-36
D-2	Program Income Report 3-36
E.	Beneficiary Breakdown 3-36
F.	Contract and Subcontract Activity 3-36
	FINAL QUARTERLY REPORT 3-36
G.	Final Statement of Program Costs and Computation of Grant Balance 3-36
H.	MSCP Property Management Register. 3-36
3.10	COMPLAINTS 3-38
3.11	GRANT TERMINATION 3-39
3.12	GRANT CLOSE-OUT 3-42
	EXHIBITS 3-44
Exhibit I	Relocation Process Under the Uniform Relocation Act 3-45

Exhibit II	MSCP Budget Code Sheet	3-49
Exhibit III	Quarterly Activity Report	3-50
Exhibit IV	Final Statement of Cost and Computation of Grant Balance	
	Instructions	3-57
	Form	3-58
	Property Register	3-60
4.0	FINANCIAL MANAGEMENT	4-1
4.1	RELEASE OF FUNDS: DRAWDOWNS/DISBURSEMENTS	4-2
A.	Forms Required For Initial Release of Funds	4-2
1.	Authorized Signature Cards (SF-1194)	4-2
a.	Notice To Preparer	4-2
b.	Preparation of the Form	4-2
c.	Distribution of the Form	4-3
2.	The Designation of Depository for Direct Deposit of Loan and/or Grant Funds (SF-274)	4-3
a.	Notice to Preparer	4-3
b.	Preparation of the Form	4-3
c.	Distribution of the Form	4-4
d.	Requirements Concerning Separate Accounts	4-4
1.	Account Designated for Direct Deposit of MSCP Funds	4-5
2.	Accounts Other Than the "Designated Account"	4-5
B.	Forms Required to Drawdown Funds	4-5
1.	Request for Payment	4-5
a.	Preparing the SF-183, MSCP Request for Payment Form	4-6
	and the PV Form, State Payment Voucher	4-6
b.	Instructions for Preparation and Distribution	4-6
	of the Commonwealth of Massachusetts' Payment Voucher Form (PV Form)	4-6
c.	Notice to Drawer	4-9
d.	Preparation of the Form	4-9

CHAPTER		PAGE
4.2	TIMETABLE FOR RECEIPT OF FUNDS BY GRANTEES	4-11
4.3	FLOW OF MSCP FUNDS	4-11
4.4	MSCP POLICY CONCERNING FEDERAL TREASURY REGULATIONS	4-13
4.5	PROGRAM INCOME	4-14
	A. Procedures for the Use of Program Income	4-14
	B. Procedures for the Reporting of Program Income	4-15
	C. Common Problems	4-16
4.6	AUDIT PROCEDURES	4-17
	A. Dollar Threshold	4-17
	B. Audit Standards	4-17
	C. Required Compliance Reports	4-17
	D. Procedures for Sub-Grantees	4-18
	E. Cost of Audit Services	4-18
	1. The Audit Requirement/Single Audit Act	4-19
	2. The Audit Procedures	4-19
	3. Requirements Concerning the Procurement of an Auditor	4-19
	4. The Provision of Staff Availability	4-20
	5. Distribution of the Audit Report .S.	4-20
	6. Procedures for Resolving Findings	4-20
4.7	RETENTION OF RECORDS	4-21
4.8	MSCP PROPERTY REGISTER	4-22
4.9	MSCP DISPOSITION POLICY FOR NON-EXPENDABLE PERSONAL PROPERTY	4-22
	EXHIBITS	4-23
	Exhibit I Standard Form 1194: Authorized Signature Card Massachusetts Small Cities Program	4-24
	Exhibit II Standard Form 274: Designation of Depository for Direct Deposit of Grant Funds	4-25
	Exhibit III Sample Letter to HUD Returning Earned Interest	4-26
	Exhibit IV Commonwealth of Massachusetts, Office of the Comptroller's Payment Voucher Input Form	4-27

CHAPTER		PAGE
	Exhibit V Standard Form 183: MSCP Request for Payment and Status of Funds Report	4-28
	Exhibit VI MSCP Disposition for Non-Expendable Personal Property	4-29
	Exhibit VII Sample Letter to EOCD/MSCP Re: Return of 2% of Program Income	4-30
5.0	PROCUREMENT	5-1
5.1	METHODS OF PROCUREMENT	5-1
	A. Small Purchase	5-1
	B. Competitive Sealed Bid	5-1
	C. Competitive Negotiation/Request for Proposals	5-2
	D. Non-Competitive Negotiation	5-2
5.2	PROCEDURE FOR DOCUMENTING PROCUREMENT	5-3
5.3	TYPES OF CONTRACTS	5-4
	A. Cost Plus Fixed Fee Contracts	5-4
	B. Fixed Price Contract	5-4
	C. Unit Price Contracts	5-4
	D. Per Diem Contracts	5-4
	E. Professional Service Contracts	5-4
	F. Third Party Contracts	5-4
	G. Agency Contracts	5-5
5.4	THE CONTENT OF THE CONTRACTS	5-5
	A. Procurement of Contracting with Management Services Consultants	5-9
5.5	MASSACHUSETTS CONTRACTING REQUIREMENTS	5-10
5.6	THE PROCUREMENT OF CONSTRUCTION SERVICES	5-12
	A. The Pre-Construction Conference	5-12
	B. Contractor Selection	5-12
	C. Davis-Bacon and Related Acts	5-13
	1. Davis-Bacon Act	5-13
	2. Copeland "Anti-Kickback" Act	5-13
	3. Contract Work Hours Act	5-14
	4. Davis-Bacon Exemptions	5-14

CHAPTER	PAGE
<ul style="list-style-type: none"> <ul style="list-style-type: none"> a. Construction Contracts at or Below \$2,000 b. Rehabilitation of Residential Structures Containing Less Than Eight Units c. Purchase of Property 5. Davis-Bacon Applicable Situations <ul style="list-style-type: none"> a. Rooming Houses, Including Single-Room Occupancy Units . b. Rebates or Grants to Commercial Owners c. Cleaning Work d. Installation of Elevators or Boilers 	<ul style="list-style-type: none"> 5-14 5-14 5-14 5-14 5-14 5-14 5-14 5-14
5.7 PROPERTY MANAGEMENT STANDARDS	5-15
<ul style="list-style-type: none"> A. Exempt Property B. Non-expendable Personal Property C. Grantee's Continued Use of the Property D. Non-expendable Personal Property With a Unit Acquisition Cost of \$1,000+ E. Common Problems 	<ul style="list-style-type: none"> 5-15 5-15 5-15 5-15 5-16
EXHIBIT: Sample Pre-Construction Report Format	5-17
6.0 PROGRAM ACTIVITIES	6-1
6.1 HOUSING REHABILITATION	6-1
<ul style="list-style-type: none"> A. Eligible Activities B. Documentation of Compliance With the National Objective C. Determining Unit Eligibility. <ul style="list-style-type: none"> 1. Single Unit Structure 2. Two Unit Structure. 3. Three or More Units D. Rental Agreements E. Fair Market Rents/Annual Adjustment Factor <ul style="list-style-type: none"> 1. Base Rent 2. Fair Market Rent (FMR) 3. Annual Adjustment Factor (AAF) F. Financing Mechanisms <ul style="list-style-type: none"> 1. Grants 2. Deferred Payment Loans (DPLs) 	<ul style="list-style-type: none"> 6-1 6-2 6-11 6-11 6-11 6-11 6-11 6-12 6-12 6-13 6-13 6-13 6-13

CHAPTER		PAGE
	3. Low interest and 0% Interest Loans	6-13
	4. Interest Pre-payment Subsidies	6-13
G.	Anti-Speculation/Recapture/Forgiveness Policy	6-14
H.	Liens and Mortgages	6-14
I.	Sweat Equity	6-15
J.	Program Design Considerations	6-15
K.	Lead Paint	6-16
	1. Guidelines	6-16
	2. Grantee Responsibilities	6-17
	3. Common Problems	6-17
L.	Asbestos	6-17
6.2	COMMERCIAL IMPROVEMENTS	6-25
A.	Eligible Activities	6-25
B.	Documentation of Compliance With A National Objective	6-26
6.3	ECONOMIC DEVELOPMENT	6-27
A.	Eligible Activities	6-27
B.	Documentation to Meet the National Objective	6-27
	1. Job creation and Retention	6-27
	2. Limited-Clientele	6-28
	3. Monitoring Requirements	6-29
C.	Financial Analysis	6-29
6.4	PUBLIC FACILITIES	6-32
A.	Eligible Activities	6-32
B.	Labor Standards	6-32
	1. Davis-Bacon Act	6-32
	2. Copeland "Anti-Kickback" Act	6-33
	3. Contract Work House Act	6-33
	4. Davis-Bacon Exemptions	6-33
C.	Documentation to Meet the National Objective	6-33

CHAPTER	PAGE
6.5 PUBLIC/SOCIAL SERVICES ACTIVITIES	6-34
A. Eligible Activities	6-34
B. Documentation to Meet the National Objective	6-35
6.6 ACQUISITION AND DEMOLITION	6-36
A. Eligible Activities	6-36
B. Documentation To Meet the National Objective	6-36
C. Procedures/Guidelines	6-36
7.0 LIST OF REGULATIONS	7-1
7.1 REGULATIONS	7-1
7.2 NOTICES	7-1
7.3 MEMORANDA	7-1
7.4 MISCELLANEOUS	7-2
8.0 PROGRAM IMPLEMENTATION MEMORANDA	8-1

CHAPTER 1.0 INTRODUCTION

This Program Management Manual was developed to aid Massachusetts Small Cities Program (MSCP) grant recipients administer their programs. This is the basic reference guide for grantees of the state-administered Community Development Block Grant (CDBG) Program. It includes a discussion of major laws, regulations, and policies and should answer most questions which arise during the implementation of a grant program.

This manual is organized into eight (8) chapters. Chapter 1 includes this introduction and presents an overall picture of the MSCP. Chapter 2 presents the documentation requirements and the process a grantee follows after an award has been made by the Executive Office of Communities and Development (EOCD). Chapter 3 presents program implementation. Chapter 4 covers the fiscal management side of program implementation. Chapter 5 provides general guidelines on the procurement requirements of the program, from management/professional services to construction services, and, from procurement of equipment and materials to corresponding property management needs.

Chapter 6 provides an overview of basic guidelines covering the more common projects and activities funded by MSCP over the years. For purposes of this manual, "program" refers to the entire grant program awarded a community. "Program" and "project" are used interchangeably, e.g., Housing Rehabilitation Program, Economic Development Project. An "activity" refers to the sub-category under a program or project, e.g., daycare subsidy under the Public/Social Services Program.

Chapter 7 presents all existing regulations, both on the federal and the state level which serve as the basis for compliance monitoring. Occasionally, updates will be provided by both the Department of Housing and Urban Development (HUD) and the state EOCD/MSCP. Regulation updates may be inserted in this chapter.

Throughout the year, MSCP may issue updates and memoranda on regulations, policies and procedures. These should be incorporated where appropriate, or inserted in Chapter 8 of the manual. We intend to improve this manual over time and welcome your comments, reactions, and suggestions for improvement.

There are two (2) other manuals that complement this Project Management Manual. These are the Financial Management Manual, which covers the fiscal related transactions of the program, and the Construction Manual, which details the federal and state requirements for CDBG funded construction projects over \$2,000. The Construction Manual is further supplemented by a Construction Contract Boilerplate.

This handbook is a blend of both generalized policy statements and explicit word-by-word guidance, MSCP encourages creativity in the projects the grantee undertakes and users are urged not to live by every comma of this handbook but to focus on basic aims, substance and policies. Try to familiarize yourself with this manual early in your program implementation. It is not intended as a substitute for grant rules and regulations but rather, as a tool for successful implementation of your program. MSCP staff are always available to answer questions you may have, provide further clarification, and offer technical assistance, when necessary. You may reach the MSCP Office at (617) 727-0494 or (617) 727-8690, or at the following address:

Executive Office of Communities & Development
Massachusetts Small Cities Program
100 Cambridge Street Room 1802
Boston, MA 02202

1.1 THE MASSACHUSETTS SMALL CITIES PROGRAM

The Massachusetts Small Cities Program (MSCP) is a federally funded program under Title I of the Housing and Community Development Act of 1974, as amended, which makes Community Development Block Grant (CDBG) program funds available to the Commonwealth's eligible cities and towns.

The CDBG Program is designed **"primarily to develop viable ... communities by providing decent housing and suitable living environment and expanding economic opportunities principally for low and moderate income persons."**

The funds are available to municipalities who have a population under 50,000 or who have not been designated as an "entitlement" community by the U.S. Department of Housing and Urban Development (HUD). The Massachusetts Executive Office of Communities and Development administers this program for HUD.

The MSCP funds local projects which enable municipalities to undertake a variety of community development activities. Examples of MSCP-funded projects include housing rehabilitation and related activities; commercial improvements such as facade renovations and signs; business development assistance which include interior renovations and improvements; public facility projects including infrastructure improvements, park renovations, and neighborhood facilities; and, a variety of social and public services. The principal benefit of these activities are for low and moderate income citizens of the Commonwealth.

Most MSCP funds are available once a year through what is known as the General Fund program. Funds are competitively awarded to municipalities to fund activities as previously described. Other MSCP resources are available throughout the year when a project is "ready" for review. This would include the Housing Development Support Program which directly supports project-specific applications and the Economic Development Set-Aside program which is also project-specific.

A. Eligible Activities

In accordance with federal regulations, no activity listed as eligible under Section 105(a) of the Housing and Community Development Act of 1974, as amended, will be specifically excluded from any component of the Small Cities Program. However, MSCP reserves the right to establish funding priorities in each of the MSCP components.

The following are types of eligible activities which relate to planning and general administrative activities. For activities which would be specific to a particular program or project please refer to the appropriate section in the manual.

Eligible planning and general administrative activities:

- i. development of a comprehensive community development plan,
- ii. development of a policy/planning/management capacity,
- iii. activities necessary to the development of comprehensive community-wide energy use strategy,
- iv. payment of the cost to complete a project funded under Title I of the Housing Act of 1949,
- v. payment of the non-federal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under Title I,

B. Ineligible Activities

The following activities may not be assisted with CDBG funds: buildings, or portions thereof, used for the general conduct of government; general government expenses and political activities. This would include municipal buildings such as city or town halls, public works structure, public safety buildings, etc. Unless carried out by sub-grantees or expressly provided for under special economic development activities, the following are also ineligible: new housing construction, equipment purchases, operating and maintenance expenses, or income payments.

C. National Objective

A prerequisite for the use of MSCP funds or implementation of a particular program or activity is the identification and documentation of a national objective. The federal regulations identify three national objectives for the use of program funds: (1) provide maximum feasible priority to activities which will benefit low and moderate income persons and families, (2) aid in the prevention or elimination of slum or blight, or (3) meet other community development needs having a particular urgency because existing conditions pose a serious threat to the health and welfare of the community, where other financial resources are not available to meet such needs.

As described in the CDBG regulations¹ in 24 CFR 570.200(a), each grantee is required to maintain evidence that each of its assisted activities meets one of the three national objectives of the program cited above: benefit to low and moderate income persons ; aiding in the prevention of slums and blight; or meeting other community development needs having a particular urgency. The specific documentation which must be met by the grantee is described at 24 CFR 570.506 (b). The only exception to this documentation rule is for planning and general program administration activities since these activities are considered to address the national objectives by virtue of supporting a program of activities, each of which addresses one of the national objectives (24 CFR 570.208 (d) (4). Therefore, separate documentation of compliance with the national objectives is not required for these activities.

¹ The CDBG regulations covering the operations of the state-run Small Cities Program will be revised soon. Revised regulations will be made available to all grantees at that time and corrections to these citations will be made then.

It is essential that grantees (or sub-recipients) determine an appropriate method for documenting the national objective of benefit they have identified. Benefit to low and moderate income persons can be documented by creating: (1) a beneficiary tracking system and (2) by using survey or census data. A hybrid or combination of these two methodologies can also be used.

A certification signed by the appropriate city or town official is required to document the elimination of slum and blight describing which condition of MGL 121 (A or B) is met by these conditions. A sample of this certification is in Chapter 8.

The documentation for critical community need is as follows: (1) the existing condition poses a serious and imminent threat to the health or welfare of the community, (2) the condition must have occurred, or have been evidenced, within the past 18 months, (3) the condition is not the result of local neglect over time, (4) there cannot be any other financial resources available to meet these needs, and (5) the proposed activity will be sufficient to correct or mitigate the threat. There is a strict requirement that all conditions must be met in order to claim this national objective. This is rarely chosen by successful applicants. However, should a situation arise that would warrant such a determination, the applicant should present information that is sufficient to document these standards.

D. The General Fund

The General Fund is the largest and most flexible single component of the program. Municipalities that have a population of 50,000 or less and that have not been designated by HUD as entitlement communities can apply to the General Fund to carry-out any eligible CDBG activities. Two or more eligible communities may join together to submit a joint General Fund application, with one of the municipalities designated as the lead community.

There are four major types of projects that would generally be considered under the General Fund: (1) housing rehabilitation, (2) public facility and infrastructure improvements, (3) economic development and (4) public/social services. Grants can be awarded for either single-purpose or comprehensive programs.

On an annual basis, the MSCP issues Requests for Proposals (RFPs) to solicit from eligible communities applications to fund community, economic, and housing development projects, and other eligible activities. For federal FY 1990, the General Fund received a \$20,749,780 allocation out of the total MSCP allocation of \$ 23,316,000 from the Department of Housing and Urban Development (HUD).

Under the General Fund, there is another sub-program that may be funded in any single fiscal year. This is the Performance Bonus Fund.

i. The Performance Bonus Fund

Bonus funds are available to General Fund grantees who are successful in achieving exceptional performance within a specified period of time may qualify to apply for a bonus award. For example, communities who have a contracted commitment level for their FY 1990 General Fund project funds of 65% or more by May 31, 1991, may apply for a supplement to expand existing services in that activity or propose, for MSCP authorization, a different but eligible use of the bonus funds. A total of \$1 million has been reserved in FY 1990 for this purpose.

Each year the amount of money in reserve is reallocated. The MSCP office will provide each grantee with current information on both the status of the fund as well as the terms and conditions which should be met in order to qualify.

E. The Set-Asides

i. The Housing Development Support Program (HDSP)

The Housing Development Support Program (HDSP) is primarily intended to foster the development of affordable public and private housing units for families and to assist with the retention of such units which are in danger of being lost to the market. In FY 1990, there is a \$2.0 million set aside under HDSP to carry out a variety of activities to support the development, improvement and retention of public or private housing that is available to low and moderate income persons.

Eligible activities may include but are not limited to: substantial rehabilitation of residential structures, homeownership initiatives (which meet the requirements of the Community Development Block Grant Program Final Rules or 24 Code of Federal Regulations (CFR) 570.204 and 24 CFR 570.207²), reclamation of abandoned properties and properties threatened by abandonment, the provision of necessary infrastructure improvements, the conversion of under-utilized or obsolete structures to housing, acquisition and site preparation, and demolition.

The program is designed to facilitate affordable rental initiatives with an emphasis on rehabilitation projects of 10-30 units which may not be otherwise cost-effective under other development assistance programs. For information contact David Lawson or John Curran at (617) 727-0494.

ii. The Economic Development Set-Aside Program (EDSA)

The Economic Development Set-Aside Program (EDSA) is the principal economic development tool of the MSCP. EDSA is designed to assist communities with major, single purpose economic development projects. Such economic development efforts may involve industrial, commercial, service, real estate or mixed use projects.

(a) Revolving Loan Program

This program is designed to provide assistance in the form of grants to communities which, in turn, are made available to private for profit businesses, quasi-public development organizations or non-profit organizations which require such financial assistance to make their projects feasible. This assistance may be in the form of a loan as well as other forms of support to eligible recipients for real estate acquisition, rehabilitation, improvements, construction of new facilities, purchase of machinery and equipment or working capital. This program also makes direct grants to communities to

² The CDBG regulations covering the operations of the state-run Small Cities Program will be revised soon. Revised regulations will be made available to all grantees at that time and corrections to these citations will be made then.

cover local cost of project administration of up to 7% of the loan principal amount. Loan repayments are made through the Community Development Finance Corporation (CDFC) to the state.

The two primary eligibility criteria for funds are: 1) clear need for EDSA funds, and 2) public benefits, principally the creation or retention of jobs at least 51% of which benefit low- and moderate-income persons. The maximum loan is \$500,000 per business and \$750,000 per community annually. Loan terms are based on staff evaluation of financial need but rates generally average 75% of prime rate. EDSA can also subordinate to other lenders. For more information contact David Weiss at (617) 727-7180.

(b) The Main Street Program

The Main Street program is a four year program which is a tool for reinvestment within central business districts. The state provides a grant for the salary of a project manager and technical assistance, in decreasing amounts over a three-year period. EOCD assists communities in establishing permanent, comprehensive management programs which combine an emphasis on physical improvements, sound management and community involvement. Communities adopt a four point program for successful implementation: organization, promotion, design and economic restructuring. For more information, contact the Jay Eberle at (617) 727-7180.

(c) The Feasibility Study Grant

A feasibility study grant enables a community to evaluate a site-specific development project and to determine whether the project creates local public benefit and addresses local needs. The maximum award is \$30,000, and a local match of at least 10% is required. Applications are accepted on a continual basis. For more information, contact Mark Nardone at (617) 727-7180.

F. The Innovative Fund

Funds which have been recaptured from prior program years due to the inability to spend an allocation comprise the Innovative Fund for any single year. This fund supports innovative proposals that foster creative and replicable approaches to operational problems commonly faced by General Fund grantees or will otherwise explore ways to increase the productivity and efficient management of local General Fund programs. The Innovative Fund may also be used to support studies to assess more precisely the impact of MSCP efforts or policies as well as for demonstration projects to explore new strategies for encouraging job development or reducing barriers to achieving self sufficiency faced by low and moderate income households.

Awards made under the Innovative Fund can be from \$50,000 to \$100,000 per proposal. Interested communities should contact the MSCP staff at (617) 727-0494.

G. Emergency Grants

Money recaptured may be available to communities for eligible activities to address emergency needs (conditions posing a serious and immediate threat to the health and welfare of the community). Applications for emergency funds will be judged according to the criteria detailed in the Program Statement for the General Fund/Community Development Fund and include need, program design, management capacity, and when applicable, prior performance and overall community development strategy.

H. The Rental Rehabilitation Program (RRP)

Funding through HUD's Rental Rehabilitation Program (RRP) may allow grantees to expand their housing rehabilitation efforts to serve more households. In selected neighborhoods, eligible communities may use RRP funds to stimulate the rehabilitation of housing units generally affordable to low and moderate income households by providing financial assistance to property owners to correct substandard conditions in amounts ranging from \$5,000 to \$8,500. The RRP assistance cannot exceed 50% of the total project cost. For units in which lower income tenants reside, Section 8 subsidy vouchers may be available to assist in keeping the units affordable to such households. Interested communities should contact David Lawson and Sumner Lederman at (617) 727-8690.

PROGRAM	GRANT MINIMUM/ MAXIMUM	FUNDING ROUND	GRANT TERM	CONTACT PERSON	TELEPHONE NUMBER
General Fund	\$100,000 to \$800,000	Once a year, usually due by Friday after Labor Day.	November of grant FY to January 31, 2 years hence or a period of 15 months.	Toni Coyne Hall Deputy Assistant Secretary	(617) 727-0494
General Fund's Performance Bonus Fund	15 % of that FY's grant award	7 months into implementation of the current grant program, usually after 5/31.	Included as part of the implementation period of the current grant program.	Toni Coyne Hall Deputy Assistant Secretary	(617) 727-0494
Innovative Fund	\$50,000 to \$100,000	Open year round	Fifteen months or shorter, depending on the nature of the project.	Toni Coyne Hall Deputy Assistant Secretary	(617) 727-0494
Emergency Grant		Open year round	Dependent on the nature of the project	Toni Coyne Hall Deputy Assistant Secretary	(617) 727-0494
EDSA Revolving Loan Fund	\$500,000	Open year round	Up to a maximum period of three years.	David Weiss, Director EDSA Revolving Loan Fund; Carolyn Britt, Manager, Economic Development Program	(617) 727-7180 (617) 727-7180
Main Street Program	Up to \$30,000	Open year round	12 months with a three-year commitment.	Jay Eberle, Director, Main Street Program	(617) 727-7180
Feasibility Study Program	\$30,000	Open year round	Generally 8-10 months but could vary depending on the nature of the project.	Mark Nardone Feasibility Study Program Coordinator	(617) 727-7180

PROGRAM	GRANT MINIMUM/ MAXIMUM	FUNDING ROUND	GRANT TERM	CONTACT PERSON	TELEPHONE NUMBER
Housing Development Support Program	\$100,000 to \$500,000	Open year round	Fifteen months	David Lawson, Housing Resources Coordinator	(617) 727-0494

CHAPTER 2.0 PRELIMINARY GRANT REQUIREMENTS and ENVIRONMENTAL REVIEW REQUIREMENTS

Description: This Chapter presents the documentation requirements and procedures a grantee follows through the environmental review process after the award has been made.

Citation: Grant Agreement between EOCD/MSCP and the grantee.

Policies/Procedures:

Prior to the release of any grant funds the grantee must submit three (3) copies of the Grant Agreement (each with an original signature of the Chief Elected Official or CEO), complete the Environmental Review process, and comply with the special conditions attached to the grant award.

2.1 The Grant Agreement

The Grant Agreement is the bilateral contract between the Commonwealth of Massachusetts and the grantee. This document provides a written understanding of all parties regarding responsibilities and timing concerning actions pertaining to the approved programs and projects. It establishes the framework of rules for implementation, permits formal start up and reflects the commitments which all parties have agreed upon for fulfilling the grant's stated goals, purpose and methodologies, where applicable.

The Grant Agreement obligates the Executive Office of Communities and Development (EOCD) through the Massachusetts Small Cities Program (MSCP) to provide up to a specified amount of Community Development Block Grant (CDBG) Small Cities Program funds, and clearly sets forth the terms and conditions under which such assistance is to be furnished, including undertakings or covenants made by the grantee with respect to the approved projects.

The Grant Agreement presents a meaningful, informative summary of the total grant program on which the parties have agreed. Serving as a guide to implementation, it indicates what the end of the project status ought to be and what outputs are to be achieved. These aspects of the agreement are important to the monitoring and evaluation of the project.

The General Conditions, Appendices A, B and C comprise the Grant Agreement. Appendix A provides the approved budget breakdown; Appendix B provides the Special Conditions to be met by the grantee prior to drawing down funds; and finally, Appendix C provides a schedule of reporting requirements for the term of the grant.

1. General Conditions

These are requirements that apply to all grantees relative to the implementation of the MSCP grant. Specifically they are: (1) minority business participation and equal employment utilization, (2) participant approval, (3) compliance with a national objective including benefit to low and moderate income people, (4) component description, (5) contractual management assistance, (6) cost allocation plans and (7) relocation.

2. Special Conditions

These are submissions, certifications, clarification, and other requirements that MSCP places on the grantee. These requirements are directly related to a specific project and/or activity funded through the grant to a community. Submission and acceptance of the Special Conditions, in addition to the Environmental Clearance and certain fiscal considerations, trigger the drawdown of funds. Special Conditions to the Grant Agreement appear in Appendix B.

2.2 Environmental Review

Citation: Community Development Block Grant Regulations, 24 CFR Part 58
Council on Environmental Quality Procedures, 40 CFR Parts 1500 through 1508
MSCP Grant Agreement, Sections 2.04 and 4.16

This section describes how to prepare and maintain a complete Environmental Review Record (ERR) which must be assembled by the recipient before any funds can be released.

A. Overview of Environmental Review Requirements

Recipients of federal funds are responsible for ensuring that funds are not spent on any activity that conflicts with federal environmental policy. Therefore, documentation must be maintained showing that every project has been evaluated with the federal policies in mind.

These federal policies can be broken down into two sets for purposes of CDBG project review; the first set based on the **National Environmental Policy Act of 1969 (NEPA)** which established national policy for protecting, restoring, and enhancing the environment; and the second set representing other statutory and regulatory requirements of various federal agencies including the **Environmental Protection Agency (EPA)**, the **Advisory Council on Historic Preservation**, and other requirements such as those relating to Floodplain Management. All activities which are "non-exempt" are subject to this second set of requirements.

Environmental review responsibilities have both legal and financial ramifications. As part of the assurances signed by each grantee, the Chief Executive Officer (CEO) agrees to assume the role of responsible Federal Official under the provisions of NEPA. This means that if someone brings suit against the local program in federal court on environmental grounds, the CEO will be named as the responsible party.

No funds can be released to a grant recipient and no project costs incurred for "non-exempt" projects until certain environmental regulations have been met. It is critical that each MSCP program maintain a written record of the environmental review process. This written record is called the "**Environmental Review Record**" (ERR) and must be available for review by the public.

When preparing the environmental review record the responsible environmental officer should:

- **Consider environmental issues early in the application process** (e.g. the officer may want to contact the local Conservation Commission to determine if the proposed project is located in or near wetlands or the officer may want to make preliminary contact with

the State Historic Preservation Officer if it appears that a proposed project area may contain historically significant structures).

- **Assemble related projects for environmental review so that cumulative impact can be considered and repetitious paperwork avoided.**
- **Maintain good records of documentation.**

The review officer should remember that often there are individuals or groups who spend a considerable amount of time and energy assessing the impacts of specific projects to be undertaken. These could include municipal or regional employees, planning agencies, and special interest groups. Using their reports and findings may save time that can be better spent on other aspects of the grant program and should, therefore, not be overlooked.

Finally, remember that the purpose of an environmental review is to ensure that the projects do not adversely affect the environment.

1. The Environmental Review Process

The following is an outline and step-by-step explanation of how to complete your environmental review responsibilities. These instructions follow the **Environmental Review Process** chart at the end of this Chapter. Read through the chart and instructions. If you have any questions, call your Program Representative at the Massachusetts Small Cities Program.

- a. Start an ERR file
- b. Designate an Environmental Certifying Officer (ECO)
- c. Determine scope of Environmental Review based on each program activity
- d. Complete environmental review requirements for all activities
- e. Publish public notices required by activity category and allow for public comment periods
- f. Submit Environmental Review documents to EOCD and allow for state/HUD comment period
- g. Receive Environmental Clearance from EOCD **after which** you may drawdown funds and proceed with activity

Following is a brief description of these steps:

a. Start an ERR file

Name the file Environmental Review Record (ERR). This file will contain all documentation of your efforts to comply with environmental requirements.

b. Designate an Environmental Certifying Officer (ECO)

The Chief Executive Officer (CEO) must designate him/herself or a competent staff person to serve as the Environmental Certifying Officer (ECO)(See Exhibit I). This person will assume overall responsibility for the environmental review process. The ECO's responsibilities include making findings and signing required certifications. The ECO does not need to be a technical expert, but should be credible if it becomes

necessary to defend a finding or conclusion of the review. It should be someone other than the person who actually conducts the review although it must be an employee of the locality. The CEO should sign a statement recording the designation of the ECO and place the statement in the ERR file. The ECO must sign all findings and checklists.

c. Determine scope of Environmental Review based on each program activity

Since each application for MSCP funds include a preliminary assessment of the status and probable impact of the proposed project(s), the review process has already begun.

Any activity which is or will be funded by MSCP must be reviewed for its impact on the environment. In addition, all activities which are part of a federally funded project must be reviewed, even if the particular activity receives no federal funds.

There are four (4) environmental review categories. All MSCP program activities must fit into one of these four categories. These are:

1. *Exempt*
2. *Categorically Excluded*
3. *Continuation of Previously Cleared Activity*
4. *Environmental Assessment Required*

Categories 1, 2 and 3 do not require a full environmental assessment. Category 4 obviously does.

Following is a brief description of the types of activities that would fall under each category, as well as the considerations per category. Refer to the cited regulations for more detailed description of the activities.

1. Exempt Activities (See 24 CFR Part 58.34)

The following type of activities are considered exempt:

- a. Environmental studies
- b. Planning activities
- c. Administration
- d. Engineering and design

To complete the environmental requirements for exempt activities, you must:

- i. Create an Environmental Review Record file (ERR)
- ii. Make a finding of exemption (based on 24 CFR 58.34) (See Exhibit II) and place it in ERR
- iii. Submit finding to EOCD, request drawdown of funds, and proceed with activity

2. Categorically Excluded Activities (See 24 CFR Part 58.35)

The following activities are "Categorically Excluded" from the NEPA requirements, but must comply with environmental requirements of other federal laws. These other laws are listed in 24 CFR 58.50.

- a. Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements if:
 - i. the existing use is retained with no physical change
 - ii. acquisition, construction, or rehabilitation will replace or upgrade existing facilities with only minimal change in use, size, capacity or location
 - iii. acquisition, construction, or rehabilitation will be consistent with use, size, capacity, and character of the site (e.g. playground equipment proposed in an existing park);
- b. Special projects for removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons.
- c. New or improved (non-physical) public services.
- d. Rehabilitation where unit density is not increased by more than 20 percent; and there are no changes in land use or residential class; and the cost of rehabilitation is less than 75 percent of the cost of replacement after rehabilitation.

To complete the environmental review requirements for categorically exclude activities, you must:

- i. Create an Environmental Review Record (ERR).
- ii. Designate an ECO (See Exhibit I).
- iii. Make a finding of Categorical Exclusion (based on 24 CFR 58.35) (See Exhibit III) and place in ERR.
- iv. Complete the Statutory Checklist found in HUD's *Environmental Review Guide for Community Development Block Grant Programs* (See Exhibit IV). This checklist helps you to comply with the other (non-NEPA) federal laws. Reliable source documentation should be cited on each line of the checklist. The checklist must be signed by the designated ECO.

- v. Send letter to State Historic Preservation Office describing your activities and allow thirty (30) days for comments (See Special Considerations: Historic Preservation, in this chapter). Respond to these comments as required and file all correspondence and evidence of response in your ERR.
- vi. Floodplain/Wetland Notices: Certain categorically excluded activities require the publishing of floodplain/wetland notices and the completion of requirements for "environmental assessment required" activities. **If your activity is in or near wetlands or the 100-year floodplain, read the section in this chapter on Special Considerations: floodplain/wetlands before continuing the environmental review process.**
- vii. After all environmental issues have been reviewed and resolved, publish a Notice of Intent to Request Release of Funds (NOIRROF)(See Exhibit V). Use the list in Exhibit VI to distribute the Notice. This Notice informs the public that you intend to request the release of funds from EOCD at least seven (7) days after the date of the publication. The Notice must also say that EOCD will consider objections for at least fifteen (15) days following receipt of your request. Place a copy of the newspaper notice along with a copy of the distribution list and evidence of distribution in the ERR file.
- viii. Prepare and submit the actual Request for Release of Funds and Certification (RROF) signed by the designated ECO to the Small Cities Program(See Exhibit VII).
- ix. After the fifteen (15) day State/HUD public comment period has expired, you will receive an Environmental Review Clearance letter from EOCD. You may drawdown funds and proceed with the program activity **only after** the date of this letter. Committing and expending funds prior to Environmental Clearance is a finding and can result in the disallowing of committed or expended funds.

NOTE: It is important for you to understand that the Request for Release of Funds (RROF) transfers the environmental responsibilities from HUD or EOCD to you if a lawsuit concerning environmental laws and regulations occurs. The Environmental Certifying Office (ECO) is assuming this responsibility for the jurisdiction when he or she signs the RROF.

3. Continuation of Previously Cleared Activities

Any activity that has already received clearance from environmental regulations may continue after the grantee has met certain documentation and reporting requirements. This category only applies to grantees that have not suffered a gap in funding and have continuous fiscal year grants (i.e. FY 1989 and FY 1990).

In order to be eligible for clearance of environmental review requirements under the Continuation of Previously Cleared Activities category, communities must first meet three basic criteria:

- a. The activities must be substantially the same as those cleared by the previous environmental review.
- b. The target area is the same as that reviewed under the previous environmental review.
- c. The community has not suffered a gap in funding and has continuous fiscal year grants (i.e., FY 1989 - FY 1990).

Communities meeting these criteria should take the following steps:

- i. Create an ERR.
- ii. Designate an ECO.
- iii. Document basis for Continued Relevance and make a Finding of Continued Relevance (Exhibit VIII) and place in ERR file.
- iv. Include previously cleared Statutory Checklist and/or Environmental Assessment Checklist, copy of previous EOCD Environmental Clearance letter and other relevant documents and notices (e.g., correspondence with State Historic Preservation Office, Wetlands/Floodplain notices) in ERR file.
- v. Publish Notice of Intent to Request Release of Funds (NOIRROF) and allow seven (7) days for local comment period.
- vi. Submit Finding of Continued Relevance and copies of the prior year's ERR documentation (statutory checklist and/or EA checklist, related correspondence, and clearance letter from EOCD) along with Request for Release of Funds signed by the designated ECO and Certification (RROF) to MSCP (See Exhibit VII).
- vii. After the fifteen (15) day state/HUD public comment period has expired, you will receive an Environmental Review Clearance letter from EOCD. You may drawdown funds and proceed with

the program activity only after the date of this letter. Committing and expending funds prior to Environmental Clearance is a finding and can result in the disallowing of committed or expended funds.

4. Environmental Assessment Required

This would apply to any activity that does not fit into any of the three other categories. Examples would be housing rehabilitation activities that result in a greater than 20 percent increase in density, or a public facility project that results in a change in use by proposing to create a playground on a currently vacant property, for instance. A full environmental assessment may also be required of categorically excluded activities if the environmental review reveals environmental features requiring further evaluation (e.g., a categorically excluded public facilities project is located within the 100 year floodplain). To complete the environmental process for activities requiring an environmental assessment, you must:

- a. Follow the above instructions for "categorically excluded activities" to create an ERR file, designate an ECO, complete the Statutory Checklist, and Historic Preservation requirements. Floodplain/Wetland requirements will apply if an activity is within wetlands or the 100-year floodplain. **Read the section in this chapter on Special Considerations: floodplain/wetlands before continuing the environmental review process.**
- b. Prepare an Environmental Assessment Checklist using the format found in HUD's *Environmental Review Guide for Community Development Block Grant Programs* (See Exhibit IX of this chapter). Be sure that reliable documentation sources are cited for every item on this assessment checklist. The designated ECO must sign the checklist.

The environmental assessment results in a local determination of a program's degree of significance based on data analysis, the reviewer's judgement, authoritative sources and documentation, and local opinions. By performing this assessment, you will determine that either: 1) the activity is not an action which significantly affects the quality of the environment and, therefore, does not require the preparation of an Environmental Impact Statement (EIS), or 2) the activity does affect the quality of the environment and, therefore, requires the preparation of an EIS.

- c. If the Environmental Assessment results in a finding that the activity will not significantly affect the quality of the human environment complete the following steps:

- i. Prepare a Finding of No Significant Impact (FONSI) Notice (Exhibit X) and distribute it to the local print media, individuals and groups known to be interested in the activity, appropriate local, state, and federal agencies, and to the headquarters and regional office of the EPA. The FONSI Notice must be published at least once in a local newspaper of general circulation and Notices must be displayed publicly such as in the post office (Keep a list of where you posted notices). The public must be given at least fifteen (15) days to comment before the recipient takes any further action.
- ii. The next step is to publish a Notice of Intent to Request Release of Funds (NOIRROF) (See Exhibit V). This Notice informs the public that you intend to request the release of funds from EOCD at least seven (7) days after the date of the publication. The Notice must also state that EOCD will consider objections for at least fifteen (15) days following receipt of your request. Place a copy of the newspaper notice along with a copy of the distribution list and evidence of distribution in the ERR file.

Note: The FONSI and the NOIRROF may be published at the same time as concurrent but separate notices or as a Combined Notice (See Exhibit XI). If combined, the notice must clearly indicate that it is intended to meet separate procedural requirements and ask that comments be specific as to which they are addressing. In addition, Combined Notices must be published fifteen (15) days before any other action is taken. The combined notice saves seven (7) days by requiring a total of fifteen (15) days for local comment rather than the twenty-two (22) days required by separately publishing the FONSI (15 days) followed by the NOIRROF (7 days).

- iii. Responses must be made to every comment received during the public notice period. All comments and responses should be forwarded to EOCD. After the local comment periods (15 days for the FONSI plus 7 days for the NOIRROF or 15 days total for the Combined Notice) have elapsed and all comments have been addressed, a Request for Release of Funds and Certification (RROF) may be submitted to EOCD (See Exhibit VII). Upon receipt of the RROF, EOCD will allow fifteen (15) days for further comments by the public. EOCD will only consider comments that pertain to those matters listed under 24 CFR Part 58.75.

Even when no new activity is proposed, revisions may occur which affect an existing project. You must re-evaluate a Finding of No Significant Impact (FONSI) whenever any of the following situations occur:

1. **There is a substantial change in the magnitude or extent of the project.**
2. **There are new circumstances and environmental conditions which may affect the project.**
3. **An alternative approach not considered in the original assessment is selected.**

The ERR should be updated to include the changes and the new decision, even if the new decision is another Finding of No Significant Impact (FONSI).

Steps 4 through 7:

For each activity category (exempt, categorically excluded, continued relevance, and environmental assessment required), Steps 4 through 7 (environmental review requirements, public notices, comment periods, and EOCD clearance) are outlined below:

4. **Complete environmental review requirements for all activities.**
5. **Publish public notices required by activity category and allow for public comment period.**
6. **Submit Environmental Review documents to EOCD and allow for State/HUD comment period.**
7. **Receive Environmental Clearance from EOCD - *after which* the grantee may drawdown funds and proceed with activity.**

B. SPECIAL CONSIDERATIONS

Following are two major items a grantee will need to consider when undertaking environmental review of projects to be funded out of MSCP: the Floodplain and Wetlands requirements, the Historic Preservation and Coastal Zone management needs.

1. Floodplain/Wetlands Requirements

Citation: MSCP Grant Agreement, Sections 4.14 and 4.17
Flood Disaster Protection Act of 1973 (P.L. 93-234)

MSCP and CDBG regulations require that recipient communities abide by the provisions of the Flood Disaster Protection Act of 1973. Actions to be taken by communities are summarized below.

Policies/Procedures:

1. Environmental Assessment

Each community must undertake an environmental review and as part of that review must consider the effect any proposed activity will have on the floodplain and wetlands in the community. If activities are undertaken in a floodplain or will have an effect on a floodplain, public notice must be given and at least 32 days allowed for public comment - two floodplain/wetlands notices must be published a minimum of 16 days apart for public comment (See Exhibit XII). These notices must be published and the required comment periods elapsed prior to Finding No Significant Impact (FONSI) from the activity and publishing the FONSI or Combined Notice. Communities must develop alternatives and weigh the pros and cons vis-a-vis the effect on the floodplain. If a **categorically excluded** activity takes place within the floodplain, the grantee must complete the requirements for **environmental assessment required activities in addition to** the requirements for **categorically excluded** activities.

Grantees undertaking **housing rehabilitation** activities which are in any part within the 100 year floodplain, **are not** required to perform the environmental assessment checklist and publish the floodplain/wetlands notice under the following circumstances:

- a. the rehabilitation does not change the base elevation of the property
- b. the rehabilitation does not alter the building footprint

Under these conditions, grantees must only meet the requirement of purchasing flood insurance described in "2" below. MSCP recommends that grantees prepare an individual Statutory Checklist for properties rehabilitated within the 100 year floodplain documenting that the potential effect on the floodplain has been considered, the above conditions have been met, and the required insurance has been purchased.

2. Floodplain Insurance

Each rehabilitation project (residential, commercial or industrial) should be checked against the floodplain boundaries and, if located within the 100 year floodplain, the owner of the property

must purchase flood insurance in accordance with the Act. Purchase of floodplain insurance is considered an eligible expense and must be held for the entire period of involvement of federal funds (e.g. for the entire period of the lien or mortgage attached by the rehabilitation program). Documentation should be kept for each property showing that the flood map was checked and that insurance was required when applicable.

3. Additional Information

For additional information on Flood Insurance and Floodplain Management contact:

Department of Environmental Management (DEM)
Division of Water Resources
100 Cambridge Street #1304
Boston, MA 02114 (617) 727-3267

2. Historic Preservation

Citation: Grant Agreement, Section 4.16

The recipient is responsible for identifying any site, district, structure, or archaeological remains within the project that is included in or may be eligible for inclusion in the National Register of Historic Places. If the recipient feels that property may be eligible for placement on the National Register it must contact the State Historic Preservation Officer (SHPO) as early as possible.

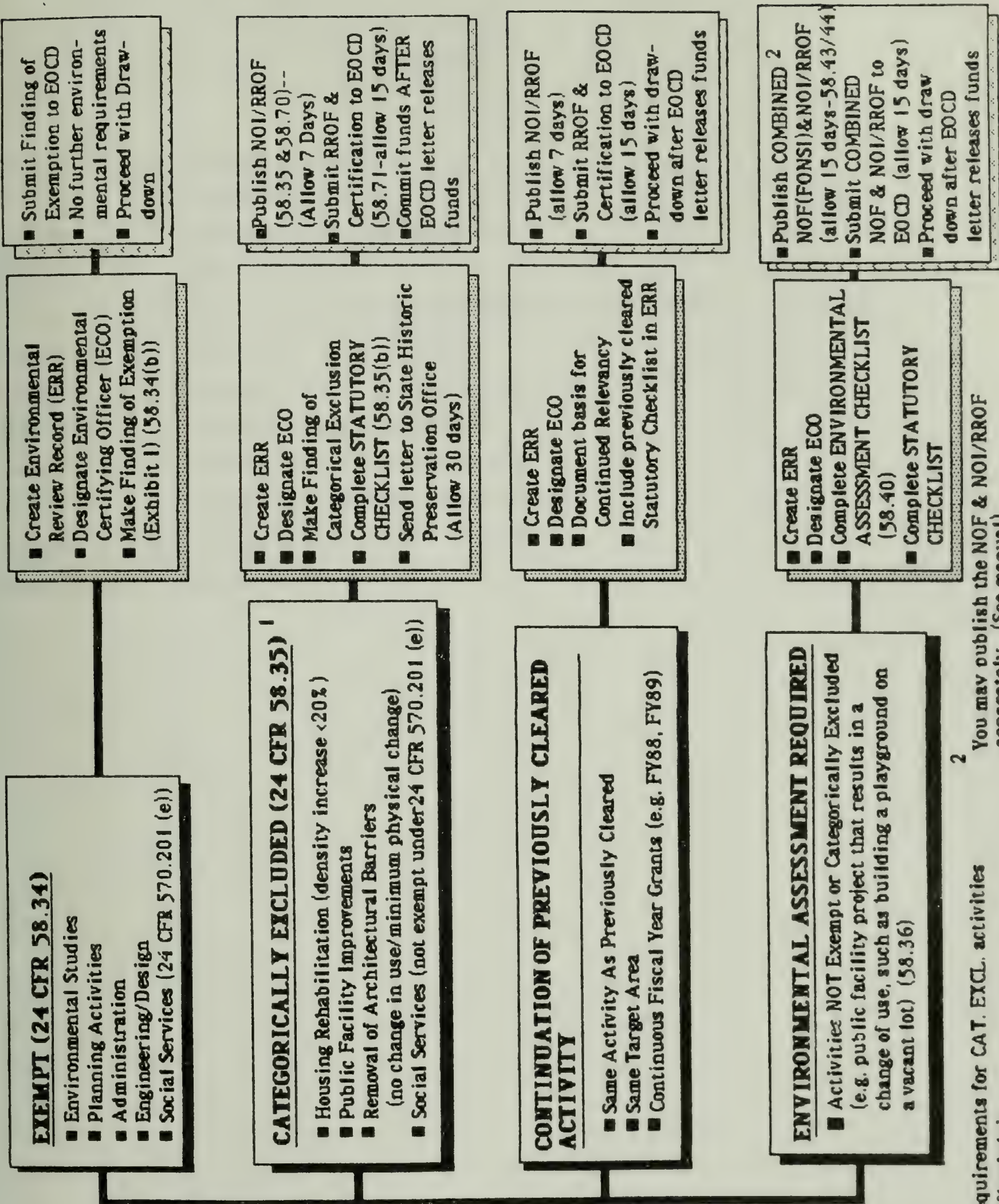
Policies/Procedures:

Recipients are required to send a letter to the State Historic Preservation Office describing the proposed rehabilitation activities and outlining the target area on a map. A copy of this correspondence must be included in the recipient's ERR file and submitted to MSCP as part of the documentation for Environmental Review Clearance. Recipients should allow thirty (30) days to receive a response from the SHPO. MSCP encourages grantees to enter into a programmatic agreement with the Massachusetts Historical Commission in order to comply with Section 106 Requirements. The SHPO can advise you on entering into a programmatic agreement for the grant period.

The Massachusetts Historical Commission has provided a fact sheet which discusses the Section 106 Review process and a copy of the Advisory Council on Historic Preservation's regulations (36 CFR 800). These are included at the end of this section, directly following the federal environmental regulations. Failure to comply with procedures concerning historic preservation is a permissible basis for objection to a recipient's release of funds. Such an objection could result in a delay or change in the proposed project.

The State Historic Preservation Officer can be reached at:

Massachusetts Historical Commission
80 Boylston Street, Suite 310
Boston, MA 02116
(617) 727-8470



Determine Scope of Environmental Review---Based on Program Activities

Note: Rarely, MSCP projects require an EIS. Contact your Program Representative if you feel you need to prepare an EIS.

¹ See manual for requirements for CAT. EXCL. activities that are within a floodplain

² You may publish the NOF & NOI/RROF separately. (See manual).

EXHIBITS

Exhibit I	Designation of ECO
Exhibit II	Finding of Exemption
Exhibit III	Finding of Categorical Exclusion
Exhibit IV	Statutory Checklist
Exhibit V	Notice of Intent to Request Release of Funds (NOIRROF)
Exhibit VI	Public Notice Distribution List
Exhibit VII	Request of Release of Funds and Certification (RROF)
Exhibit VIII	Finding of Categorical Exclusion
Exhibit IX	Environmental Assessment Checklist
Exhibit X	Finding of No Significant Impact (FONSI)
Exhibit XI	Combined Notice (FONSI and RROF)
Exhibit XII	Floodplain and Wetlands Notices

DESIGNATION OF ENVIRONMENTAL CERTIFYING OFFICER

In my capacity as Chairman of the Board of Selectmen for the Town of Smallville, Massachusetts, I designate Jane Smith, Administrative Assistant to the Board of Selectmen, as the Town's Environmental Certifying Officer.

John Jones
Chairman, Board of Selectmen

date

FINDING OF EXEMPTION
(sample)

It is the finding of the City of Smallville, Massachusetts, that the following activities proposed in its Small Cities CDBG application for Fiscal Year __, are exempt from environmental review requirements of NEPA and the environmental review requirements of related federal authorities because the activities are defined as exempt activities in Section 58.34:

- Environmental Studies
- Administrative costs
- Continuation of public service grants

The project activities judged exempt are (for example):

- feasibility study for location of youth center
- engineering study for removal of architectural barriers at Town Hall
- administrative costs

Completion of other environmental Program Requirements:

- Floodplain and wetlands
No project proposed herein as exempt is located within a designated floodplain or wetland.
- Historic preservation No activity proposed herein as exempt involves or will affect any structure listed in the National Register of Historic Properties, any structure listed in or eligible for listing in any state or local registry of historic places.

FINDING OF CATEGORICAL EXCLUSION
(sample)

It is the finding of the City of Smallville, Massachusetts, that the activities proposed in its Small Cities CDBG application for Fiscal Year __, consist solely of activities categorically excluded from the environmental review requirements of NEPA and that these activities are in compliance with the environmental requirements of related federal authorities. The activities and the related authority for exclusion are listed below:

(Examples:)

1. Valley Street Reconstruction: The street will not be widened or expanded. It will be reconstructed and repaved with concrete; sidewalks will be installed.

Authority: 58.35 (a) (1): reconstruction of public facilities meeting the specified requirements.

2. Local Residential Rehabilitation Grant Program: Rehabilitation of 25 owner-occupied, single-family homes.

Authority: 58.35 (a) (4): rehabilitation of buildings and other improvements meeting the requirements specified.

Compliance with the environmental requirements of other related federal authorities is indicated on the attached Statutory Checklist.

Statutory Checklist

Project Name and Identification No. Housing Rehabilitation - Town of Smallville

Area of Statutory-Regulatory Compliance

Provisions for applicable statutes
and regulations are printed on
the back of this Checklist. Full
discussion of each is provided in
Appendix B)

	Not Applicable to This Project	Consultation Required	Review Required*	Permits Required*	Determination of Consistency Approvals, Permits Obtained*	Conditions and/or Mitigation Actions Required	Provide compliance documentation Additional material may be attached
Historic Properties		X					Sec. 106 Review; consult with local hist. commission and MHC; MOA with MHC
Floodplain Management	X						No floodplains within project area (FEMA map)
Wetlands Protection	X						No wetlands within project area (local Conservation Commission)
Noise	X						No impacts on current noise levels will result from this program
Manmade Hazards							No hazards within one mile of any possible site
Thermal/Explosive Hazards	X						
Airport Clear Zones	X						No civil jet airport or military airbase in area
Air Quality	X						No air quality impacts anticipated from rehab work.
Water Quality - Aquifers	X						No sole source aquifers in the area (Smallville Bd. of Health)
Coastal Areas Coastal Zone Management	X						Not a coastal zone
Coastal Barrier Resources	X						Not a coastal barrier district
Endangered Species	X						No endangered species known to exist in project area. All rehab work done in urban, well developed area.
Farmlands Protection	X						N/A. Rehab work in urban area. (Town planner)
Wild and Scenic Rivers	X						N/A. No rivers in project area

Statutory Checklist

Permits, Licences, Forms of
Compliances Under Other Laws
(Federal, State and Local Laws)

Project Name and Identification No. Housing Rehabilitation - Town of Smallville

OTHER AREAS OF STATUTORY AND REGULATORY COMPLIANCE APPLICABLE TO PROJECT							Provide compliance documentation Additional Material may be attached
	Not Applicable to This Project	Consultation Required	Review Required*	Permits Required*	Determination of Consistency Approvals, Permits Obtained	Conditions and/or Mitigation Actions Required*	
Water Quality	X						No new construction. No impact on water quality (Bd. of Health)
Solid Waste Disposal	X						Solid wastes resulting from program will be disposed of in Town landfills or through private haulers.
Fish and Wildlife	X						Program activities are confined to settled areas with no impact on fish wildlife
State or Local Statutes (to be added by local community)	X						Program is consistent with local zoning regulations. No other regulations apply. (Town planner)

Note: See HUD-399-CPD, "Environmental Reviews at the Community Level", as
revised for further details regarding the use of assessment formats.

Prepared By Jane Smith

Title Environmental Certifying Officer

Date 2/10/90

Listing of Applicable Statutes and Regulations by Area of Compliance

Please see Appendix B of this Guide
for explanation of procedures to be followed.

Historic Properties

National Historic Preservation Act of 1966, Section 106 (16 U.S.C. 470f)

Preservation of Historic and Archaeological Data Act of 1974 (16 U.S.C. 469-469c)

Executive Order 11593, Protection and Enhancement of the Cultural Environment

Floodplain

Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et. seq.) and Implementary Regulations

Title 24, Chapter X, Subchapter B, National Flood Insurance Program (44 CFR 59-79)

Executive Order 11988 and HUD Procedure for Floodplain Management (24 CFR Part 55) (When Issued)

Wetlands

Executive Order 11990, Protection of Wetlands and Applicable State Legislation or Regulations. Also 24 CFR Part 55 (When Issued)

Noise

HUD Regulations (24 CFR Part 51, Subpart B)

Air Quality*

Clean Air Act of 1970 as Amended (42 U.S.C. 7401-7642) EPA Regulation 40 CFR Part 50, and Partially 40 CFR Part 51, 52, 61.

Man-made Hazards

HUD Regulation (24 CFR Part 51, Subpart C)

HUD Notice 79-33) Indefinite Notice, September 10, 1979.

HUD Regulation 24 (CFR Part 51 Subpart D)

Water Quality*

Federal Water Pollution Control Act, as Amended (33 U.S.C. 1251-1376)

Safe Drinking Water Act of 1974 (42 U.S.C. 300f-300j-10) as Amended

U.S. Environmental Protection Agency (EPA) Implementing Regulations 40 CFR Parts 100-149

Solid Waste Disposal*

Solid Waste Disposal Act as Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901-6987)

U.S. Environmental Protection Agency (EPA) Implementing Regulations 40 CFR Parts 240-265

Coastal Areas

Coastal Zone Management Act of 1972 as Amended (16 U.S.C. 1451-1464)

Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501 et. seq.)

Endangered Species

Endangered Species Act of 1973 as Amended (16 U.S.C. 1531-1543)

Farmlands Protection

Farmlands Protection Policy Act of 1981 (U.S.C. 4201 et. seq.) Implementing Regulations 7 CFR Part 658

Wild and Scenic Rivers

Wild and Scenic Rivers Act of 1968 as Amended (16 U.S.C. 1271 et. seq.)

*Environmental laws that have permit, license or other forms of compliance usually implemented through a State agency are also listed here.

NOTICE OF INTENT TO REQUEST THE RELEASE OF FUNDS (NOIRROF)

Name, Address, Zip Code and Telephone Number of Grant Recipient)

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS;

On or about (*date) the (above-named grant recipient) will request the Commonwealth of Massachusetts to release CDBG funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383) as amended for the following project:

(PROJECT TITLE OR NAME)

(PURPOSE OR NATURE OF PROJECT)

(LOCATION OF PROJECT - CITY, COUNTY, STATE)

An Environmental Record respecting the within project has been made by the (above-named grant recipient) which documents the environmental review of the project. This Environmental Review Record is on file at the above address and is available for public examination and copy, upon request.

(or)

The above project has been determined to be categorically excluded per 24 Code of Federal Regulations 58.35 and no further environmental reviews are required.

(Name of recipient) will undertake the project described above with Block Grant Funds from the Commonwealth of Massachusetts under Title I of the Housing and Community Development Act of 1974. (Name of Applicant) is certifying to the State that (Name of recipient) and (Chief Executive Officer or other officer of applicant approved by the State), in his/her official capacity as (office), consent to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decisionmaking, and action; and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval, (name of recipient) may use the Block Grant funds, and the State will have satisfied its responsibilities under the National Environmental Policy Act of 1969 and other provisions of law.

The State will consider objections claiming a recipients's non-compliance with the Part based on any of the grounds listed below:

- (a) The certification was not in fact executed by the recipient's Certifying Officer.

Notice of Intent to Request the Release of Funds - page 2

(b) The recipient has failed to make one of the two findings pursuant to section 58.41 (finding or no finding of significant effect) or to make the written determination decision required by subsection 58.47 (re-evaluation of finding of no significant effect), 58.53 (re-use of prior Environmental Impact Statement), or 58.64 (supplement to Draft Environmental Impact Statement or Environmental Impact Statement) for the project, as applicable.

(c) The recipient has omitted one or more of the steps set forth at Subparts F and G for the preparation and completion of an Environmental Assessment.

(d) The recipient has omitted one or more of the steps set forth at Subparts H and I for the conduct, preparation and completion of an EIS.

(e) No opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on a property listed in the National Register of Historic Places, or found to be eligible for such listing by the Secretary of the Interior, in accordance with 36 Code of Federal Regulations Part 800.

(f) With respect to a project for which a recipient has decided that subsection 58.47, 58.53, or 58.64 apply, the recipient has failed to include in the ERR the written decision required, or its decision is not supported by facts specified by the objecting party.

(g) Another Federal agency acting pursuant to 40 Code of Federal Regulations Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. The only bases upon which the State will disapprove the RROF and certification are set forth above.

Objections must be prepared and submitted in accordance with the required procedure (24 Code of Federal Regulations Part 58), and may be addressed to Massachusetts Small Cities Program, 100 Cambridge Street, Room 1802, Boston, MA 02202.

No objection received after (**date of last day in the 15-day period) will be considered by the State.

(Name and Address of Chief Executive Officer of Grant Recipient)

* 7 days after "Notice of Intent to Request Release of Funds" is published

**15 days after "Intent" date to Request Release of Funds

NOTE: The 15-day State comment period begins the day **FOLLOWING RECEIPT** of the grant recipient's Request for Release of Funds (RROF) and Certification.

PUBLIC NOTICE DISTRIBUTION LIST

A copy of the Notice of Intent to Request Release of Funds (NOIRROF) is to be sent to the following organizations and individuals:

Local Newspaper

Posted in Local Post Office and Town/City Hall

Regional Planning Agency

Local Special Interest Groups

Environmental Protection Agency
JFK Federal Building
Government Center
Boston, MA 02202

Massachusetts Historical Commission
State Historic Preservation Officer
80 Boylston Street
Boston, MA 02108

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION

(Pursuant to Section 104 (h) of Title I of the Housing and Community Development Act of 1974 as Amended)

ENVIRONMENTAL

1. NAME OF APPLICANT	2. APPLICATION/GRANT NUMBER
3. APPLICANT'S ADDRESS (Include Street, City, State and ZIP Code)	4. DATE OF REQUEST/CERTIFICATION

5. REQUEST FOR RELEASE OF FUNDS. Release of approved grant funds for the following project is requested:

PROJECT

GRANTEE
(If Other Than Applicant)

6. CERTIFICATION. With reference to the above project, I, the undersigned officer of the applicant, certify:

That the applicant has at least seven (7) days prior to submitting this request for release of funds and certification, published and disseminated in the manner prescribed by 24 CFR 58.43, a notice to the public (a copy of which is attached) in accordance with 24 CFR 58.70;

That the applicant has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project named above; that the applicant has complied with the National Environmental Policy Act of 1969; that the applicant has complied with the environmental procedures, permit requirements and the statutory obligations of the laws cited in 24 CFR 58.5; and that the applicant has taken into account the environmental criteria, standards, permit requirements and other obligations applicable to the project under the other related laws and authorities cited in 24 CFR 58.5.

That the level of environmental clearance carried out by applicant in connection with this said project ☐ did ☐ did not require the preparation and dissemination of an environmental impact statement;

That the dates upon which all statutory and regulatory time periods for review, comment, or other response or action in regard to this clearance began and ended as indicated below; that all such dates which are applicable to this aforesaid clearance are indicated below; and that with the expiration of each of the time periods indicated below, applicant is in compliance with the requirements of 24 CFR Part 58.

ITEM	COMMENCE MO/DAY/YR	EXPIRE MO/DAY/YR
Notice of Finding of No Significant Impact: Publication		
Same: Comment period		
Notice of Intent to Prepare EIS: Publication		
Draft EIS: Comment period		
Same: 90-day period (NEPA Regulations)		
Final EIS: 30-day period (NEPA Regulations)		
7-Day Notice of Intent to Request Release of Funds: Publication		
15-day HUD decision period		
Other (Specify)		

That I am authorized to, and do, consent to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of law specified in 24 CFR 58.5 insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decisionmaking and action assumed and carried out by the applicant; that by so consenting, I assume the responsibilities, where applicable, for the conduct of environmental review, decisionmaking and action as to environmental issues, preparation and circulation of draft, final and supplemental environmental impact statements, and assumption of lead agency or cooperating agency responsibilities for preparation of such statements on behalf of Federal agencies including HUD, when these agencies consent to such assumption;

That I am authorized to consent to, and do, accept on behalf of the applicant and personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my official capacity as certifying officer of the applicant.

(Signature, Title and Address of Certifying Officer of Applicant)

WARNING - Section 1001 of Title 18 of the United States Code and Criminal Procedure shall apply to this certification. Title 18 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

Finding of Continued Relevance

It is the Finding of the Environmental Certifying Officer of the Town of Smallville, Massachusetts, that the housing rehabilitation activity to be undertaken during the Town's FY 1990 Massachusetts Small Cities Program meets the criteria for Continuation of a Previously Cleared Activity. The criteria are:

- the activity is the same as that cleared previously
- the target area is the same as reviewed previously
- the community has not suffered a gap in funding and has continuous fiscal year grants (FY 1989 and FY 1990)

Based on this finding of Continued Relevance, the Town of Smallville's environmental review requirements for FY 1990 have been satisfied by the FY 1989 Environmental Review.

Jane Smith
Environmental Certifying Officer

date

* * * * *

NOTE: Grantee's meeting criteria for Continued Relevance must still publish the NOIRROF and submit the RROF to EOCD. See the manual for complete instructions.

Note: Source documentation should be filled out completely.
(See Statutory Checklist - Exhibit IV - for example)

Environmental Assessment Checklist

page 1

Project Name and Identification No. _____

Impact Categories	1 No Impact Anticipated	2 Potentially Beneficial	3 Potentially Adverse Requires Documentation Only	4 Potentially Adverse Requires More Study	5 Needs Mitigation	6 Requires Project Modification	7 Source or Documentation (Note date of contact or page reference) Additional material may be attached.
Land Development							
Conformance With Comprehensive Plans and Zoning							
Compatibility and Urban Impact							
Slope							
Erosion							
Soil Suitability							
Hazards and Nuisances, Including Site Safety							
Energy Consumption							
Noise							
Effects of Ambient Noise on Project and Contribution to Com- munity Noise Levels							

(continued, page 2)

Project Name and Identification No.

Source or Documentation
(Note date of contact or
page reference)
Additional material may be
attached.

Environmental
Assessment Checklist
(continued, page 3)

Project Name and Identification No. _____

Impact Categories		<div>No Impact Anticipated</div> <div>Potentially Beneficial</div> <div>Potentially Adverse Requires Documentation Only</div> <div>Potentially Adverse Requires More Study</div> <div>Needs Mitigation</div> <div>Requires Project Modification</div>							Source or Documentation (Note date of contact or page reference) Additional material may be attached.
		1	2	3	4	5	6	7	
Community Facilities and Services (Continued)									
Solid Waste									
Waste Water									
Storm Water									
Water Supply									
Public Safety Police									
	Fire								
	Emergency Medical								
Open Space and Recreation	Open Space								
	Recreation								
	Cultural Facilities								
Transportation									

Environmental
Assessment Checklist
(continued, page 4)

Project Name and Identification No. _____

Impact Categories	No Impact Anticipated	Potentially Beneficial	Potentially Adverse Requires Documentation Only	Potentially Adverse Requires More Study	Needs Mitigation	Requires Project Modification	Source or Documentation (Note date of contact or page reference) Additional material may be attached.
Natural Features							
Water Resources							
Surface Water							
Floodplains							
Wetlands							
Coastal Zone							
Unique Natural Features and Agricultural Lands							
Vegetation and Wildlife							

Environmental Assessment Checklist

(continued, page 5)

Summary of Findings and Conclusions:

Summary of Environmental Conditions:

Project Modifications and Alternatives Considered:

continued, page 61

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

This image shows a single page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or printed text on the page.

Continued, page 7)

- Date _____

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT (FONSI)

*Date: _____

(Name, Address, Zip Code and Telephone Number of Recipient)

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

The above-named (grant recipient) proposed to request the Commonwealth of Massachusetts to release CDBG funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383) as amended to be used for the following project:

(PROJECT, TITLE OR NAME)

PURPOSE OR NATURE OF PROJECT)

(LOCATION OF PROJECT - CITY, COUNTY, STATE)

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and, accordingly, the above-named (grant recipient) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for such decision not to prepare such Statement are as follows:

(set forth reasons for decision)

An Environmental Review Record respecting the within project has been made by the above-named (grant recipient) which documents the environment review of the project and more fully sets forth the reasons why such Statement is not required. This Environmental Review Record is on file at the

Notice of Finding of No Significant Impact (FONSI) - page 2

above address and is available for public examination and copying, upon request, at _____, between the hours of ____ and ____.

(If applicable) No further environmental review of such project is proposed to be conducted, prior to the request for release of CDBG funds.

All interested agencies, groups and persons disagreeing with the decision are invited to submit written comments for consideration by the (grant recipient) to the (office of undersigned) (other specified place). Such written comments should be received at (the address specified) on or before (**date). All such comments so received will be considered and the (grant recipient) will not request the release of CDBG funds or take any administrative action on the within project prior to the date specified in the preceding sentence.

(Name and Address of Chief Executive Officer of Grant Recipient)

* Insert date of first publication

**Not less than 15 days after this publication.

COMBINED NOTICES

Notice of Finding of No Significant Impact (FONSI) and
Notice of Intent to Request the Release of Funds (NOIRROF)

*Date _____

(
Name, Address, Zip Code and Telephone Number of Recipient)

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

On or about (**date) the (above-named grant recipient) will request the commonwealth of Massachusetts to release CDBG funds under Title I of the Housing and Community Development Act 1974 (PL 93-383) as amended for the following project:

(PROJECT TITLE OR NAME)

(PURPOSE OR NATURE OF PROJECT)

(LOCATION OF PROJECT - CITY, COUNTY, STATE)

It has been determined that such a request for release of funds will not constitute an action significantly affecting the quality of the human environment and, accordingly, the above-named (grant recipient) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for such decision not to prepare such Statement are as follows:

(Set forth reasons for decision)

An Environmental Review Record respecting the within project has been made by the (above-named grant recipient) which documents the environment review of the project and more fully sets forth the reasons why such Statement is not required. This Environmental Review Record is on file at the above address and is available for public examination and copying, upon request, at _____, between the hours of ____ and ____.

(If applicable) No further environmental review of such project is proposed to be conducted, prior to the request for release of CDBG funds.

All interested agencies, groups and persons disagreeing with the decision are invited to submit written comments for consideration by the (grant recipient) to the (office of undersigned) (other specified place). Such written comments should be received at (the address specified) on or before (**date). All such comments so received will be considered and the (grant recipient) will not request the release of CDBG funds or take any administrative action on the within project prior to the date specified in the preceding sentence.

(Name of recipient) will undertake the project described above with Block Grant Funds from the Commonwealth of Massachusetts under Title I of the Housing and Community Development Act of 1974. (Name of Applicant) is certifying to the State that (Name of recipient) and (Chief Executive Officer or other officer of applicant approved by the State), in his/her official capacity as (office), consent to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decisionmaking, and action; and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval, (name of recipient) may use the Block Grant funds, and the State will have satisfied its responsibilities under the National Environmental Policy Act of 1969 and other provisions of law.

The State will consider objections claiming a recipients's non-compliance with the Part based on any of the grounds listed below:

- (a) The certification was not in fact executed by the recipient's Certifying Officer.
- (b) The recipient has failed to make one of the two findings pursuant to section 58.41 (finding or no finding of significant effect) or to make the written determination decision required by subsection 58.47 (re-evaluation of finding of no significant effect), 58.53 (re-use of prior Environmental Impact Statement), or 58.64 (supplement to Draft Environmental Impact Statement or Environmental Impact Statement) for the project, as applicable.
- (c) The recipient has omitted one or more of the steps set forth at Subparts F and G for the preparation and completion of an Environmental Assessment.
- (d) The recipient has omitted one or more of the steps set forth at Subparts H and I for the conduct, preparation and completion of an EIS.
- (e) No opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on a property listed in the National Register of Historic Places, or found to be eligible for such listing by the Secretary of the Interior, in accordance with 36 Code of Federal Regulations Part 800.
- (f) With respect to a project for which a recipient has decided that subsection 58.47, 58.53, or 58.64 apply, the recipient has failed to include in the ERR the written decision required, or its decision is not supported by facts specified by the objecting party.

(g) Another Federal agency acting pursuant to 40 Code of Federal Regulations Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. The only bases upon which the State will disapprove the RROF and certification are set forth above.

Objections must be prepared and submitted in accordance with the required procedure (24 Code of Federal Regulations Part 58), and may be addressed to Massachusetts Small Cities Program, Executive Office of Communities and Development, 100 Cambridge Street, Room 1802, Boston, MA 02202. Objections to the release of funds on bases other than those stated above will not be considered by the State. No objections received after (****date of last day in the 15-day period) will be considered by the State.

(Name and Address of Chief Executive Officer of Grant Recipient)

* date of publication

** not less than 16 days after date of this publication

*** not less than 15 days after date of this publication

**** Not less than 31 days after date of this publication

NOTE: The 15-day State comment period begins the day **FOLLOWING RECEIPT** of the grant recipient's Request for Release of Funds (RROF) and Certification.

FLOODPLAIN AND WETLANDS NOTICES

1. EARLY PUBLIC NOTICE

The Town of Hometown, Massachusetts is considering improvements along River Road from Bridge Street to Canal Street as a part of a Massachusetts Small Cities Program CDBG project. The project is located in the 100-year floodplain. River Road is a major commercial area and is experiencing deterioration. This project is necessary to repair existing drainage and improve subsurface drainage. The town is interested in discussing alternatives and securing public perceptions of possible adverse impacts that could result from the project. Please send written comments to Mary Smith, Town Hall, Hometown, Massachusetts 02222. Comments must be received before (date _____).

2. NOTICE OF EXPLANATION

The town of Hometown, Massachusetts intends to install new sewer mains and catch basins along River Road in the area described above. The road will then be resurfaced and improved street lighting installed. The proposed improvements cannot be undertaken in any other location. There is, therefore, no practicable alternative to the proposed project (if there are alternatives, you must discuss them here).

The project is part of the Town's long range flood plain management plan and conforms to all applicable flood plain protection standards. The proposed activity will not affect natural or beneficial flood plain values as it represents an improvement to an existing roadway. Failure to provide these improvements would result in continued deterioration of the commercial area.

The other agency (ies) involved in this project is (are) the Massachusetts Executive Office of Communities and Development (EOCD) and The U.S. Department of Housing and Urban Development (HUD). (List all agencies providing funding and/or approvals and permits.) A more detailed description of the project is available for citizen review at Town Hall, Hometown, MA.

Comments will be accepted until _____(date) (16 days from dated publication). Please send your comments to:

Mary Smith
Certifying Officer
Town Hall
Hometown, MA 02222

Publish the two notices a minimum of 16 days apart in a general circulation local paper and post appropriately.

OCT 29 1987

Fact Sheet

Advisory Council on Historic Preservation

The Old Post Office Building

1100 Pennsylvania Avenue, NW, #809, Washington, DC 20004

A FIVE-MINUTE LOOK AT SECTION 106 REVIEW

as revised by regulations published September 2, 1986

About the Section 106 review process

WHAT IS SECTION 106 REVIEW? This term refers to the Federal review process designed to ensure that historic properties are considered during Federal project planning and execution. The review process is administered by the Advisory Council on Historic Preservation, an independent Federal agency.

WHO ESTABLISHED SECTION 106? The Congress did, as part of the National Historic Preservation Act of 1966 (NHPA). NHPA, strengthened and expanded by several subsequent amendments, today has become the cornerstone of this country's historic preservation policy.

WHY WAS SECTION 106 CREATED? NHPA was enacted because of public concern that so many of our Nation's historic resources were not receiving adequate attention as the Government sponsored much-needed public works projects. In the 1960's, Federal preservation law applied only to a handful of nationally significant properties, and Congress recognized that new legislation was needed to protect the many other historic properties that were being harmed by Federal activities.

WHAT DOES NHPA SAY? Section 106 of NHPA requires that every Federal agency "take into account" how each of its undertakings could affect historic properties. An agency must also afford the Council a reasonable opportunity to comment on the agency's project.

WHAT IS A FEDERAL "UNDERTAKING"? This term includes a broad range of Federal activities: construction, rehabilitation and repair projects, demolition, licenses, permits, loans, loan guarantees, grants, Federal property transfers, and many other types of Federal involvement. Whenever one of these activities affects a historic property, the sponsoring agency is obligated to seek Council comments.

WHAT IS A HISTORIC PROPERTY? For purposes of Section 106, any property listed in or eligible for the National Register of Historic Places is considered historic.

The National Register is this country's basic inventory of historic resources and is maintained by the Secretary of the Interior. The list includes buildings, structures, objects, sites, districts, and archeological resources. The listed properties are not just of nationwide importance; most are significant primarily at the State or local level. It is important to note that the protections of Section 106 extend to properties that possess significance but have not yet been listed or formally determined eligible for listing. Even properties that have not yet been discovered, but that possess significance, are subject to Section 106 review.

About the Council

WHAT IS THE ADVISORY COUNCIL ON HISTORIC PRESERVATION?

The 19-member Council is composed of a Chairman, Vice Chairman, six other private citizen members, a governor, and a mayor--all appointed by the President of the United States. The Council also includes the Secretaries of the Interior and Agriculture, the heads of four Federal agencies designated by the President (currently Treasury, HUD, Transportation, and the Office of Administration), the Architect of the Capitol, the Chairman of the National Trust for Historic Preservation, and the President of the National Conference of State Historic Preservation Officers. The Council members usually meet four times during the year. Day-to-day business of the Council involving Section 106 review is conducted by an Executive Director and a professional staff of historians, architects, archeologists, planners, lawyers, and administrative personnel.

Section 106 participants

WHO INITIATES SECTION 106 REVIEW? The Federal agency involved in the proposed project or activity is responsible for initiating and completing the Section 106 review process. Under certain circumstances, local governmental bodies may act as the responsible agency. The agency works with the State Historic Preservation Officer (an official appointed in each State or territory to administer the national historic preservation program) and the Council to do so. In this fact sheet, the term "agency" is used to mean the responsible unit of government, be it Federal or local. There can be other participants in the Section 106 process as well. At times, local governments, representatives of Indian tribes, applicants for Federal grants, licenses, or permits, and others may join in the review process when it affects their interests or activities.

A brief look at the review process

HOW DOES SECTION 106 REVIEW WORK? Federal regulations spell out the specific process by which an agency affords the Council an opportunity to comment on the agency's proposed activity. The Council's regulations, "Protection of Historic Properties," appear in the U.S. Code of Federal Regulations at 36 CFR Part 800. These

regulations were revised and reissued on September 2, 1986 (51 FR 31115). A simplified look at the process follows:

FIVE STEPS OF SECTION 106 REVIEW

Step 1: IDENTIFY AND EVALUATE HISTORIC PROPERTIES. First, the agency reviews all of the available information that could help in determining whether there may be historic properties in the area of the proposed activity. Based on this review, the agency decides whether any additional survey work is needed to locate possible historic properties.

Next, the agency identifies all National Register-listed properties that might be affected by the proposed activity. The agency also identifies properties not actually listed in the Register, but which appear to meet eligibility criteria. Then the agency and the State Historic Preservation Officer (SHPO) together apply the National Register criteria to decide whether the properties are eligible for listing, and thus subject to the Section 106 process.

Step 2: ASSESS EFFECTS. Once historic properties have been identified and found to meet National Register criteria, the Federal agency determines whether its proposed activity will affect them in any way. Again, the agency works with the SHPO, making judgments based on criteria found in the Council's regulations. There are three possible findings:

- o No effect: If there will be no effect of any kind on the historic properties, the agency notifies the SHPO and interested parties of its determination of no effect. If the SHPO does not object, the agency proceeds with the project.
- o No adverse effect: If there could be an effect, but the effect would not be harmful to the historic properties, the agency obtains SHPO concurrence and submits to the Council a determination of no adverse effect. Or, the agency can submit its determination of no adverse effect directly to the Council for review and notify the SHPO of its determination. Unless the Council objects, the agency proceeds with its project or activity.
- o Adverse effect: If there could be a harmful effect to a historic property, the agency begins the consultation process.

Step 3: CONSULTATION. During this step, an effort is made to find acceptable ways to reduce the harm ("avoid or mitigate the adverse effect") to the historic properties. The consulting parties are the agency and the SHPO; Council involvement in consultation is optional. Other interested parties (such as a local government, Indian tribe, or Federal applicant for a grant, license, or permit) may also be invited to join the consultation, and must be invited under certain circumstances.

The agency gathers needed documentation, informs the public that consultation is underway, and works with the consulting parties to find

a solution. When the consulting parties have agreed on steps to avoid or reduce harm to historic properties, they sign a Memorandum of Agreement (MOA).

In a very few cases, the consulting parties cannot agree on a solution, in which case the consultation is terminated. The agency may then submit documentation to the Council and request the issuance of written Council comments.

Step 4: COUNCIL COMMENT. Unless the Council has already signed the MOA (by virtue of being a consulting party), the agency submits the signed MOA to the Council for review. The Council can accept the MOA, request changes to it, or opt to issue written comments on the proposed activity.

If the consulting parties have terminated consultation, the Council issues written comments about the proposed agency action directly to the head of that agency.

Step 5: PROCEED. If the Section 106 review process has resulted in a Council-accepted Memorandum of Agreement, the agency proceeds with its proposed activity according to the terms of that MOA. Absent an MOA, the agency must take into account the Council's written comments, after which the agency makes the final decision about how (or whether) to proceed with its proposed activity. The agency notifies the Council of its decision.

Either outcome concludes the Section 106 review process and satisfies the agency's statutory responsibilities under Section 106 of the National Historic Preservation Act of 1966.

HOW LONG DOES SECTION 106 REVIEW TAKE? The timetable for Steps 1-3 (identification through consultation) are up to the agency, as the Council is not typically involved at this point. Once the agency submits a signed MOA (with needed documentation) for Council review, that review can take up to 30 days. If there is no MOA, the agency can request issuance of Council comments within 60 days of when the Council receives required documentation.

For more information

WHERE DOES ONE GET MORE INFORMATION? This brief look at Section 106 review obviously cannot tell the whole story. For complete information about the Council's review process, consult the Council's regulations (at 36 CFR Part 800), published September 2, 1986 (51 FR 31115). The Council has available without charge an annotated version of its regulations, which aids understanding of the regulatory language, as well as a booklet entitled "Section 106, Simply Explained," which provides a more detailed introductory look at the process.

For easy-to-understand training on the Section 106 process, the Council offers a two-day course, "Introduction to Federal Projects and Historic Preservation Law," which is offered in many locations

around the country each year. The course is designed for the Section 106 novice and explains, step-by-step, what actions are required by Federal, State, and local officials to meet the requirements of the law.

For more information, write: Advisory Council on Historic Preservation, The Old Post Office Building, 1100 Pennsylvania Avenue, N.W., Suite 809, Washington, DC 20004. Telephone: 202/786-0503 (executive offices and training office); 202/786-0505 (Section 106 review office).

Revised September 1986

The State Historic Preservation Officer in Massachusetts is:

Valerie Talmage
Executive Director
Massachusetts Historical Commission
80 Boylston Street, Room 310
Boston, MA 02116
(617) 727-8470

National Environmental Policy Act -- Regulations

40 CFR Part 1500-1508

40 CFR Part 1500

NATIONAL ENVIRONMENTAL POLICY ACT—REGULATIONS

TABLE OF CONTENTS

PART 1500—PURPOSE, POLICY, AND MANDATE

- Sec.
- 1500.1 Purpose.
 - 1500.2 Policy.
 - 1500.3 Mandate.
 - 1500.4 Reducing paperwork.
 - 1500.5 Reducing delay.
 - 1500.6 Agency authority.

PART 1501—NEPA AND AGENCY PLANNING

- 1501.1 Purpose.
- 1501.2 Apply NEPA early in the process.
- 1501.3 When to prepare an environmental assessment.
- 1501.4 Whether to prepare an environmental impact statement.
- 1501.5 Lead agencies.
- 1501.6 Cooperating agencies.
- 1501.7 Scoping.
- 1501.8 Time limits.

PART 1502—ENVIRONMENTAL IMPACT STATEMENT

- 1502.1 Purpose.
 - 1502.2 Implementation.
 - 1502.3 Statutory requirements for statements.
- Sec.
- 1502.4 Major Federal actions requiring the preparation of environmental impact statements.
 - 1502.5 Timing.
 - 1502.6 Interdisciplinary preparation.
 - 1502.7 Page limits.
 - 1502.8 Writing.
 - 1502.9 Draft, final, and supplemental statements.
 - 1502.10 Recommended format.
 - 1502.11 Cover sheet.
 - 1502.12 Summary.
 - 1502.13 Purpose and need.
 - 1502.14 Alternatives including the proposed action.
 - 1502.15 Affected environment.
 - 1502.16 Environmental consequences.
 - 1502.17 List of preparers.
 - 1502.18 Appendix.
 - 1502.19 Circulation of the environmental impact statement.
 - 1502.20 Tiering.
 - 1502.21 Incorporation by reference.
 - 1502.22 Incomplete or unavailable information.
 - 1502.23 Cost-benefit analysis.
 - 1502.24 Methodology and scientific accuracy.
 - 1502.25 Environmental review and consultation requirements.

PART 1503—COMMENTING

- 1503.1 Inviting comments.
- 1503.2 Duty to comment.
- 1503.3 Specificity of comments.
- 1503.4 Response to comments.

PART 1504—PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY UNSATISFACTORY

- 1504.1 Purpose.
- 1504.2 Criteria for referral.
- 1504.3 Procedure for referrals and response.

PART 1505—NEPA AND AGENCY DECISIONMAKING

- 1505.1 Agency decisionmaking procedures.
- 1505.2 Record of decision in cases requiring environmental impact statements.
- 1505.3 Implementing the decision.

PART 1506—OTHER REQUIREMENTS OF NEPA

- 1506.1 Limitations on actions during NEPA process.
- 1506.2 Elimination of duplication with State and local procedures.
- 1506.3 Adoption.
- 1506.4 Combining documents.
- 1506.5 Agency responsibility.
- 1506.6 Public involvement.
- 1506.7 Further guidance.
- 1506.8 Proposals for legislation.
- 1506.9 Filing requirements.
- 1506.10 Timing of agency action.
- 1506.11 Emergencies.
- 1506.12 Effective date.

PART 1507—AGENCY COMPLIANCE

- 1507.1 Compliance.
- 1507.2 Agency capability to comply.
- 1507.3 Agency procedures.

PART 1508—TERMINOLOGY AND INDEX

- 1508.1 Terminology.
- 1508.2 Act.
- 1508.3 Affecting.
- 1508.4 Categorical exclusion.
- 1508.5 Cooperating agency.
- 1508.6 Council.
- 1508.7 Cumulative impact.
- 1508.8 Effects.
- 1508.9 Environmental assessment.
- 1508.10 Environmental document.
- 1508.11 Environmental impact statement.
- 1508.12 Federal agency.
- 1508.13 Finding of no significant impact.
- 1508.14 Human environment.
- 1508.15 Jurisdiction by law.
- 1508.16 Lead agency.
- 1508.17 Legislation.
- 1508.18 Major Federal action.
- 1508.19 Matter.
- 1508.20 Mitigation.
- 1508.21 NEPA process.
- 1508.22 Notice of intent.

- 1508.23 Proposal.
- 1508.24 Referring agency.
- 1508.25 Scope.
- 1508.26 Special expertise.
- 1508.27 Significantly.
- 1508.28 Tiering.
- Index.

PART 1500—PURPOSE, POLICY, AND MANDATE

- Sec.
- 1500.1 Purpose.
 - 1500.2 Policy.
 - 1500.3 Mandate.
 - 1500.4 Reducing paperwork.
 - 1500.5 Reducing delay.
 - 1500.6 Agency authority.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970 as amended by Executive Order 11991, May 24, 1977).

§ 1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement Section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must con-

centrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.

§ 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations.

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(c) Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

§ 1500.3 Mandate.

Parts 1500-1508 of this Title provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (NEPA or the Act) except where compliance would be inconsistent with other statutory re-

quirements. These regulations are issued pursuant to NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.) Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977). These regulations, unlike the predecessor guidelines, are not confined to Sec. 102(2)(C) (environmental impact statements). The regulations apply to the whole of section 102(2). The provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law. It is the Council's intention that judicial review of agency compliance with these regulations not occur before an agency has filed the final environmental impact statement, or has made a final finding of no significant impact (when such a finding will result in action affecting the environment), or takes action that will result in irreparable injury. Furthermore, it is the Council's intention that any trivial violation of these regulations not give rise to any independent cause of action.

§ 1500.4 Reducing paperwork.

Agencies shall reduce excessive paperwork by:

(a) Reducing the length of environmental impact statements (§ 1502.2(c)), by means such as setting appropriate page limits (§§ 1501.7(b)(1) and 1502.7).

(b) Preparing analytic rather than encyclopedic environmental impact statements (§ 1502.2(a)).

(c) Discussing only briefly issues other than significant ones (§ 1502.2(b)).

(d) Writing environmental impact statements in plain language (§ 1502.8).

(e) Following a clear format for environmental impact statements (§ 1502.10).

(f) Emphasizing the portions of the environmental impact statement that are useful to decisionmakers and the public (§§ 1502.14 and 1502.15) and reducing emphasis on background material (§ 1502.16).

(g) Using the scoping process, not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (§ 1501.7).

(h) Summarizing the environmental impact statement (§ 1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (§ 1502.19).

(i) Using programs, policy, or plan environmental impact statements and

tiering from statements of broad scope to those of narrower scope, to eliminate repetitive discussions of the same issues (§§ 1502.4 and 1502.20).

(j) Incorporating by reference (§ 1502.21).

(k) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(l) Requiring comments to be as specific as possible (§ 1503.3).

(m) Attaching and circulating only changes to the draft environmental impact statement, rather than rewriting and circulating the entire statement when changes are minor (§ 1503.4(c)).

(n) Eliminating duplication with State and local procedures, by providing for joint preparation (§ 1506.2) and with other Federal procedures, by providing that an agency may adopt appropriate environmental documents prepared by another agency (§ 1506.3).

(o) Combining environmental documents with other documents (§ 1506.4).

(p) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and which are therefore exempt from requirements to prepare an environmental impact statement (§ 1508.4).

(q) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment and is therefore exempt from requirements to prepare an environmental impact statement (§ 1508.13).

§ 1500.5 Reducing delay.

Agencies shall reduce delay by:

(a) Integrating the NEPA process into early planning (§ 1501.2).

(b) Emphasizing interagency cooperation before the environmental impact statement is prepared, rather than submission of adversary comments on a completed document (§ 1501.8).

(c) Insuring the swift and fair resolution of lead agency disputes (§ 1501.5).

(d) Using the scoping process for an early identification of what are and what are not the real issues (§ 1501.7).

(e) Establishing appropriate time limits for the environmental impact statement process (§§ 1501.7(b)(2) and 1501.8).

(f) Preparing environmental impact statements early in the process (§ 1502.5).

(g) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(h) Eliminating duplication with State and local procedures by providing for joint preparation (§ 1506.2) and with other Federal procedures by providing that an agency may adopt ap-

appropriate environmental documents prepared by another agency (§ 1506.3).

(i) Combining environmental documents with other documents (§ 1506.4).

(j) Using accelerated procedures for proposals for legislation (§ 1506.8).

(k) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment (§ 1508.4) and which are therefore exempt from requirements to prepare an environmental impact statement.

(l) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment (§ 1508.13) and is therefore exempt from requirements to prepare an environmental impact statement.

§ 1500.6 Agency authority.

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in section 102 means that each agency of the Federal Government shall comply with that action unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

PART 1501—NEPA AND AGENCY PLANNING

- Sec.
- 1501.1 Purpose.
 - 1501.2 Apply NEPA early in the process.
 - 1501.3 When to prepare an environmental assessment.
 - 1501.4 Whether to prepare an environmental impact statement.
 - 1501.5 Lead agencies.
 - 1501.6 Cooperating agencies.
 - 1501.7 Scoping.
 - 1501.8 Time limits.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609, and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May, 24 1977).

§ 1501.1 Purpose.

The purposes of this part include:

(a) Integrating the NEPA process into early planning to insure appropriate consideration of NEPA's policies and to eliminate delay.

(b) Emphasizing cooperative consultation among agencies before the envi-

ronmental impact statement is prepared rather than submission of adversary comments on a completed document.

(c) Providing for the swift and fair resolution of lead agency disputes.

(d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly.

(e) Providing a mechanism for putting appropriate time limits on the environmental impact statement process.

§ 1501.2 Apply NEPA early in the process.

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. Each agency shall:

(a) Comply with the mandate of section 102(2)(A) to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment," as specified by § 1507.2.

(b) Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents.

(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act.

(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

(1) Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action.

(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.

(3) The Federal agency commences its NEPA process at the earliest possible time.

§ 1501.3 When to prepare an environmental assessment.

(a) Agencies shall prepare an environmental assessment (§ 1508.9) when necessary under the procedures adopted by individual agencies to supple-

ment these regulations as described in § 1507.3. An assessment is not necessary if the agency has decided to prepare an environmental impact statement.

(b) Agencies may prepare an environmental assessment on any action at any time in order to assist agency planning and decisionmaking.

§ 1501.4 Whether to prepare an environmental impact statement.

In determining whether to prepare an environmental impact statement the Federal agency shall:

(a) Determine under its procedures supplementing these regulations (described in § 1507.3) whether the proposal is one which:

(1) Normally requires an environmental impact statement, or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by § 1508.9(a)(1).

(c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.

(d) Commence the scoping process (§ 1501.7), if the agency will prepare an environmental impact statement.

(e) Prepare a finding of no significant impact (§ 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.

(1) The agency shall make the finding of no significant impact available to the affected public as specified in § 1506.6.

(2) In certain limited circumstances, which the agency may cover in its procedures under § 1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to § 1507.3, or

(ii) The nature of the proposed action is one without precedent.

§ 1501.5 Lead agencies.

(a) A lead agency shall supervise the preparation of an environmental

impact statement if more than one Federal agency either:

(1) Proposes or is involved in the same action; or

(2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (§ 1506.2).

(c) If an action falls within the provisions of paragraph (a) of this section the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

(1) Magnitude of agency's involvement.

(2) Project approval/disapproval authority.

(3) Expertise concerning the action's environmental effects.

(4) Duration of agency's involvement.

(5) Sequence of agency's involvement.

(d) Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated.

(e) If Federal agencies are unable to agree on which agency will be the lead agency or if the procedure described in paragraph (c) of this section has not resulted within 45 days in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

(1) A precise description of the nature and extent of the proposed action;

(2) A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified above in paragraph (c) of this section.

(f) A response may be filed by any potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead

agency and which other Federal agencies shall be cooperating agencies.

§ 1501.6 Cooperating agencies.

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(3) Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

(1) Participate in the NEPA process at the earliest possible time.

(2) Participate in the scoping process (described below in § 1501.7).

(3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.

(5) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

(c) A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement (described in paragraph (b) (3), (4), or (5) of this section) reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council.

§ 1501.7 Scoping.

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable

after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (§ 1508.22) in the FEDERAL REGISTER except as provided in § 1507.3(e).

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under § 1507.3(c). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule.

(b) As part of the scoping process the lead agency may:

(1) Set page limits on environmental documents (§ 1502.7).

(2) Set time limits (§ 1501.8).

(3) Adopt procedures under § 1507.3 to combine its environmental assessment process with its scoping process.

(4) Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.

(c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

§ 1501.8 Time limits.

Although the Council has decided that prescribed universal time limits for the entire NEPA process are too inflexible, Federal agencies are encouraged to set time limits appropriate to individual actions (consistent with the time intervals required by § 1506.10). When multiple agencies are involved the reference to agency below means lead agency.

(a) The agency shall set time limits if an applicant for the proposed action requests them: *Provided*, That the limits are consistent with the purposes of NEPA and other essential considerations of national policy.

(b) The agency may:

(1) Consider the following factors in determining time limits:

(i) Potential for environmental harm.

(ii) Size of the proposed action.

(iii) State of the art of analytic techniques.

(iv) Degree of public need for the proposed action, including the consequences of delay.

(v) Number of persons and agencies affected.

(vi) Degree to which relevant information is known and if not known the time required for obtaining it.

(vii) Degree to which the action is controversial.

(viii) Other time limits imposed on the agency by law, regulations, or executive order.

(2) Set overall time limits or limits for each constituent part of the NEPA process which may include:

(i) Decision on whether to prepare an environmental impact statement (if not already decided).

(ii) Determination of the scope of the environmental impact statement.

(iii) Preparation of the draft environmental impact statement.

(iv) Review of any comments on the draft environmental impact statement from the public and agencies.

(v) Preparation of the final environmental impact statement.

(vi) Review of any comments on the final environmental impact statement.

(vii) Decision on the action based in part on the environmental impact statement.

(3) Designate a person (such as the project manager or a person in the agency's office with NEPA responsibilities) to expedite the NEPA process.

(c) State or local agencies or members of the public may request a Federal Agency to set time limits.

PART 1502—ENVIRONMENTAL IMPACT STATEMENT

Sec.

1502.1 Purpose.

1502.2 Implementation.

1502.3 Statutory Requirements for Statements.

1502.4 Major Federal Actions Requiring the Preparation of Environmental Impact Statements.

1502.5 Timing.

1502.6 Interdisciplinary Preparation.

1502.7 Page Limits.

1502.8 Writing.

1502.9 Draft, Final, and Supplemental Statements.

1502.10 Recommended Format.

1502.11 Cover Sheet.

1502.12 Summary.

1502.13 Purpose and Need.

1502.14 Alternatives Including the Proposed Action.

1502.15 Affected Environment.

1502.16 Environmental Consequences.

1502.17 List of Preparers.

1502.18 Appendix.

1502.19 Circulation of the Environmental Impact Statement.

1502.20 Tiering.

1502.21 Incorporation by Reference.

1502.22 Incomplete or Unavailable Information.

1502.23 Cost-Benefit Analysis.

1502.24 Methodology and Scientific Accuracy.

1502.25 Environmental Review and Consultation Requirements.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1502.1 Purpose.

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with

other relevant material to plan actions and make decisions.

§ 1502.2 Implementation.

To achieve the purposes set forth in § 1502.1 agencies shall prepare environmental impact statements in the following manner:

(a) Environmental impact statements shall be analytic rather than encyclopedic.

(b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.

(c) Environmental impact statements shall be kept concise and shall be no longer than absolutely necessary to comply with NEPA and with these regulations. Length should vary first with potential environmental problems and then with project size.

(d) Environmental impact statements shall state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.

(e) The range of alternatives discussed in environmental impact statements shall encompass those to be considered by the ultimate agency decisionmaker.

(f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (§ 1506.1).

(g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

§ 1502.3 Statutory requirements for statements.

As required by sec. 102(2)(C) of NEPA environmental impact statements (§ 1508.11) are to be included in every recommendation or report. On proposals (§ 1508.23). For legislation and (§ 1508.17). Other major Federal actions (§ 1508.18). Significantly (§ 1508.27). Affecting (§§ 1508.3, 1508.8). The quality of the human environment (§ 1508.14).

§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.25) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts or proposals which are related to each other closely enough to be, in effect, a single course of action shall

be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§ 1501.7), tiering (§ 1502.20), and other methods listed in §§ 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay.

§ 1502.5 Timing.

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (§ 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made (§§ 1500.2(c), 1501.2, and 1502.2). For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

(b) For applications to the agency appropriate environmental assess-

ments or statements shall be commenced no later than immediately after the application is received. Federal agencies are encouraged to begin preparation of such assessments or statements earlier, preferably jointly with applicable State or local agencies.

(c) For adjudication, the final environmental impact statement shall normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

(d) For informal rulemaking the draft environmental impact statement shall normally accompany the proposed rule.

§ 1502.6 Interdisciplinary preparation.

Environmental impact statements shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7).

§ 1502.7 Page limits.

The text of final environmental impact statements (e.g., paragraphs (d) through (g) of § 1502.10) shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

§ 1502.8 Writing.

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

§ 1502.9 Draft, final, and supplemental statements.

Except for proposals for legislation as provided in § 1506.8 environmental impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in Part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft state-

ment is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in Part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances, or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

§ 1502.10 Recommended format.

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

(a) Cover sheet.

(b) Summary.

(c) Table of Contents.

(d) Purpose of and Need for Action.

(e) Alternatives Including Proposed Action (secs. 102(2)(C)(iii) and 102(2)(E) of the Act).

(f) Affected Environment.

(g) Environmental Consequences (especially sections 102(2)(C) (i), (ii), (iv), and (v) of the Act).

(h) List of Preparers.

(i) List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent.

(j) Index.

(k) Appendices (if any).

If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, as further described in §§ 1502.11-1502.18, in any appropriate format.

§ 1502.11 Cover sheet.

The cover sheet shall not exceed one page. It shall include:

(a) A list of the responsible agencies including the lead agency and any co-operating agencies.

(b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.

(c) The name, address, and telephone number of the person at the agency who can supply further information.

(d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) The date by which comments must be received (computed in cooperation with EPA under § 1506.10).

The information required by this section may be entered on Standard Form 424 (in items 4, 6, 7, 10, and 18).

§ 1502.12 Summary.

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

§ 1502.13 Purpose and need.

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.

§ 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (§ 1502.15) and the Environmental Consequences (§ 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options

by the decisionmaker and the public. In this section agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

§ 1502.15 Affected environment.

The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

§ 1502.16 Environmental consequences.

This section forms the scientific and analytic basis for the comparisons under § 1502.14. It shall consolidate the discussions of those elements required by secs. 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of sec. 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not

duplicate discussions in § 1502.14. It shall include discussions of:

(a) Direct effects and their significance (§ 1508.18).

(b) Indirect effects and their significance (§ 1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See § 1506.2(c).)

(d) The environmental effects of alternatives including the proposed action. The comparisons under § 1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(h) Means to mitigate adverse environmental impacts (if not fully covered under § 1502.14(f)).

§ 1502.17 List of preparers.

The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement (§§ 1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages.

§ 1502.18 Appendix.

If an agency prepares an appendix to an environmental impact statement the appendix shall:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (§ 1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decision to be made.

(d) Be circulated with the environmental impact statement or be readily available on request.

§ 1502.19 Circulation of the environmental impact statement.

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in § 1502.18(d) and unchanged statements as provided in § 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

(a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.

(b) The applicant, if any.

(c) Any person, organization, or agency requesting the entire environmental impact statement.

(d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.

§ 1502.20 Tiering.

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (§ 1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Sec. 1508.28).

§ 1502.21 Incorporation by reference.

Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference

unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.

§ 1502.22 Incomplete or unavailable information.

When an agency is evaluating significant adverse effects on the human environment in an environmental impact statement and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.

(a) If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis and an indication of the probability or improbability of its occurrence.

§ 1502.23 Cost-benefit analysis.

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. To assess the adequacy of compliance with sec. 102(2)(B) of the Act the statement shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision.

§ 1502.24 Methodology and scientific accuracy.

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

§ 1502.25 Environmental review and consultation requirements.

(a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.) the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), and other environmental review laws and executive orders.

(b) The draft environmental impact statement shall list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall so indicate.

PART 1503—COMMENTING

Sec.

1503.1 Inviting Comments.

1503.2 Duty to Comment.

1503.3 Specificity of Comments.

1503.4 Response to Comments.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1503.1 Inviting comments.

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

(ii) Indian tribes, when the effects may be on a reservation; and

(iii) Any agency which has requested that it receive statements on actions of the kind proposed.

Office of Management and Budget Circular A-95 (Revised), through its system of clearinghouses, provides a means of securing the views of State and local environmental agencies. The clearinghouses may be used, by mutual agreement of the lead agency and the clearinghouse, for securing State and local reviews of the draft environmental impact statements.

(3) Request comments from the applicant, if any.

(4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

(b) An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided under § 1506.10

§ 1503.2 Duty to comment.

Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment in § 1506.10. A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment.

§ 1503.3 Specificity of comments.

(a) Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.

(b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

(c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences.

§ 1503.4 Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

(1) Modify alternatives including the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration by the agency.

(3) Supplement, improve, or modify its analyses.

(4) Make factual corrections.

(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a) (4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (§ 1502.19). The entire document with a new cover sheet shall be filed as the final statement (§ 1506.9).

PART 1504—PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY UNSATISFACTORY

Sec.

1504.1 Purpose.

1504.2 Criteria for Referral.

1504.3 Procedure for Referrals and Response.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as

amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1504.1 Purpose.

(a) This part establishes procedures for referring to the Council Federal interagency disagreements concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is "unsatisfactory from the standpoint of public health or welfare or environmental quality," section 309 directs that the matter be referred to the Council (hereafter "environmental referrals").

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public.

§ 1504.2 Criteria for referral.

Environmental referrals should be made to the Council only after concerted, timely (as early as possible in the process), but unsuccessful attempts to resolve differences with the lead agency. In determining what environmental objections to the matter are appropriate to refer to the Council, an agency should weigh potential adverse environmental impacts, considering:

- (a) Possible violation of national environmental standards or policies.
- (b) Severity.
- (c) Geographical scope.
- (d) Duration.
- (e) Importance as precedents.
- (f) Availability of environmentally preferable alternatives.

§ 1504.3 Procedure for referrals and response.

(a) A Federal agency making the referral to the Council shall:

(1) Advise the lead agency at the earliest possible time that it intends to refer a matter to the Council unless a satisfactory agreement is reached.

(2) Include such advice in the referring agency's comments on the draft environmental impact statement, except when the statement does not

contain adequate information to permit an assessment of the matter's environmental acceptability.

(3) Identify any essential information that is lacking and request that it be made available at the earliest possible time.

(4) Send copies of such advice to the Council.

(b) The referring agency shall deliver its referral to the Council not later than twenty-five (25) days after the final environmental impact statement has been made available to the Environmental Protection Agency, commenting agencies, and the public. Except when an extension of this period has been granted by the lead agency, the Council will not accept a referral after that date.

(c) The referral shall consist of:

(1) A copy of the letter signed by the head of the referring agency and delivered to the lead agency informing the lead agency of the referral and the reasons for it, and requesting that no action be taken to implement the matter until the Council acts upon the referral. The letter shall include a copy of the statement referred to in (c)(2) below.

(2) A statement supported by factual evidence leading to the conclusion that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall:

(i) Identify any material facts in controversy and incorporate (by reference if appropriate) agreed upon facts.

(ii) Identify any existing environmental requirements or policies which would be violated by the matter.

(iii) Present the reasons why the referring agency believes the matter is environmentally unsatisfactory.

(iv) Contain a finding by the agency whether the issue raised is of national importance because of the threat to national environmental resources or policies or for some other reason.

(v) Review the steps taken by the referring agency to bring its concerns to the attention of the lead agency at the earliest possible time, and

(vi) Give the referring agency's recommendations as to what mitigation alternative, further study, or other course of action (including abandonment of the matter) are necessary to remedy the situation.

(d) Not later than twenty-five (25) days after the referral to the Council the lead agency may deliver a response to the Council, and the referring agency. If the lead agency requests more time and gives assurance that the matter will not go forward in the interim, the Council may grant an extension. The response shall:

(1) Address fully the issues raised in the referral.

(2) Be supported by evidence.

(3) Give the lead agency's response to the referring agency's recommendations.

(e) Interested persons (including the applicant) may deliver their views in writing to the Council. Views in support of the referral should be delivered not later than the referral. Views in support of the response shall be delivered not later than the response.

(f) Not later than twenty-five (25) days after receipt of both the referral and any response or upon being informed that there will be no response (unless the lead agency agrees to a longer time), the Council may take one or more of the following actions:

(1) Conclude that the process of referral and response has successfully resolved the problem.

(2) Initiate discussions with the agencies with the objective of mediation with referring and lead agencies.

(3) Hold public meetings or hearings to obtain additional views and information.

(4) Determine that the issue is not one of national importance and request the referring and lead agencies to pursue their decision process.

(5) Determine that the issue should be further negotiated by the referring and lead agencies and is not appropriate for Council consideration until one or more heads of agencies report to the Council that the agencies' disagreements are irreconcilable.

(6) Publish its findings and recommendations (including where appropriate a finding that the submitted evidence does not support the position of an agency).

(7) When appropriate, submit the referral and the response together with the Council's recommendation to the President for action.

(g) The Council shall take no longer than 60 days to complete the actions specified in paragraph (f) (2), (3), or (5) of this section.

(h) When the referral involves an action required by statute to be determined on the record after opportunity for agency hearing, the referral shall be conducted in a manner consistent with 5 U.S.C. 557(d) (Administrative Procedures Act).

PART 1505—NEPA AND AGENCY DECISIONMAKING

Sec.

1505.1 Agency decisionmaking procedures.

1505.2 Record of decision in cases requiring environmental impact statements.

1505.3 Implementing the decision.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1505.1 Agency decisionmaking procedures.

Agencies shall adopt procedures (§ 1507.3) to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

(a) Implementing procedures under section 102(2) to achieve the requirements of sections 101 and 102(1).

(b) Designating the major decision points for the agency's principal programs likely to have a significant effect on the human environment and assuring that the NEPA process corresponds with them.

(c) Requiring that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings.

(d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions.

(e) Requiring that the alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker consider the alternatives described in the environmental impact statement. If another decision document accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.

§ 1505.2 Record of decision in cases requiring environmental impact statements.

At the time of its decision (§ 1506.10) or, if appropriate, its recommendation to Congress, each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, including that required by OMB Circular A-95 (Revised), part I, sections 6 (c) and (d), and part II, section 5(b)(4), shall:

(a) State what the decision was.

(b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and

state how those considerations entered into its decision.

(c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.

§ 1505.3 Implementing the decision.

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

(a) Include appropriate conditions in grants, permits or other approvals.

(b) Condition funding of actions on mitigation.

(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

(d) Upon request, make available to the public the results of relevant monitoring.

PART 1506—OTHER REQUIREMENTS OF NEPA

Sec.

1506.1 Limitations on actions during NEPA process.

1506.2 Elimination of duplication with State and local procedures.

1506.3 Adoption.

1506.4 Combining documents.

1506.5 Agency responsibility.

1506.6 Public involvement.

1506.7 Further guidance.

1506.8 Proposals for legislation.

1506.9 Filing requirements.

1506.10 Timing of agency action.

1506.11 Emergencies.

1506.12 Effective date.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1506.1 Limitations on actions during NEPA process.

(a) Until an agency issues a record of decision as provided in § 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:

(1) Have an adverse environmental impact; or

(2) Limit the choice of reasonable alternatives.

(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate environmental impact statement; and

(3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.

(d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance. Nothing in this section shall preclude Rural Electrification Administration approval of minimal expenditures not affecting the environment (e.g. long leadtime equipment and purchase options) made by non-governmental entities seeking loan guarantees from the Administration.

§ 1506.2 Elimination of duplication with State and local procedures.

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication

between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

§ 1506.3 Adoption.

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify.

§ 1506.4 Combining documents.

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork.

§ 1506.5 Agency responsibility.

(a) *Information.* If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers (§ 1502.17). It is the intent of this subparagraph that acceptable work not be redone, but that it be verified by the agency.

(b) *Environmental assessments.* If an agency permits an applicant to prepare an environmental assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment.

(c) *Environmental impact statements.* Except as provided in §§ 1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or where appropriate under § 1501.6(b), a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency.

§ 1506.6 Public involvement.

Agencies shall: (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental docu-

ments so as to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern notice shall include publication in the *FEDERAL REGISTER* and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the *102 Monitor*. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).

(ii) Notice to Indian tribes when effects may occur on reservations.

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).

(v) Notice through other local media.

(vi) Notice to potentially interested community organizations including small business associations.

(vii) Publication in newsletters that may be expected to reach potentially interested persons.

(viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

(d) Solicit appropriate information from the public.

(e) Explain in its procedures where interested persons can get information or status reports on environmental

impact statements and other elements of the NEPA process.

(f) make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

§ 1506.7 Further guidance.

The Council may provide further guidance concerning NEPA and its procedures including:

(a) A handbook which the Council may supplement from time to time, which shall in plain language provide guidance and instructions concerning the application of NEPA and these regulations.

(b) Publication of the Council's Memoranda to Heads of Agencies.

(c) In conjunction with the Environmental Protection Agency and the publication of the *102 Monitor*, notice of:

(1) Research activities;

(2) Meetings and conferences related to NEPA; and

(3) Successful and innovative procedures used by agencies to implement NEPA.

§ 1506.8 Proposals for legislation.

(a) The NEPA process for proposals for legislation (§ 1508.17) significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress. A legislative environmental impact statement is the detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement which can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

(b) Preparation of a legislative environmental impact statement shall conform to the requirements of these regulations except as follows:

(1) There need not be a scoping process.

(2) The legislative statement shall be prepared in the same manner as a draft statement, but shall be considered the "detailed statement" required by statute: *Provided*, That when any of the following conditions exist both the draft and final environmental impact statement on the legislative proposal shall be prepared and circulated as provided by §§ 1503.1 and 1506.10.

(i) A Congressional Committee with jurisdiction over the proposal has a rule requiring both draft and final environmental impact statements.

(ii) The proposal results from a study process required by statute (such as those required by the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) and the Wilderness Act (16 U.S.C. 1131 et seq.).

(iii) Legislative approval is sought for Federal or federally assisted construction or other projects which the agency recommends be located at specific geographic locations. For proposals requiring an environmental impact statement for the acquisition of space by the General Services Administration a draft statement shall accompany the Prospectus or the 11(b) Report of Building Project Surveys to the Congress, and a final statement shall be completed before site acquisition.

(iv) The agency decides to prepare draft and final statements.

(c) Comments on the legislative statement shall be given to the lead agency which shall forward them along with its own responses to the Congressional committees with jurisdiction.

§ 1506.9 Filing requirements.

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A-104), 401 M Street SW., Washington, D.C. 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President. EPA may issue guidelines to agencies to implement its responsibilities under this section and § 1506.10 below.

§ 1506.10 Timing of agency action.

(a) The Environmental Protection Agency shall publish a notice in the *FEDERAL REGISTER* each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded

under § 1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described above in paragraph (a) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described above in paragraph (a) of this section for a final environmental impact statement. An exception to the rules on timing may be made in the case of an agency decision which is subject to a formal internal appeal. Some agencies have a formally established appeal process which allows other agencies or the public to take appeals on a decision and make their views known, after publication of the final environmental impact statement. In such cases, where a real opportunity exists to alter the decision, the decision may be made and recorded at the same time the environmental impact statement is published. This means that the period for appeal of the decision and the 30-day period prescribed in paragraph (b)(2) of this section may run concurrently. In such cases the environmental impact statement shall explain the timing and the public's right of appeal. An agency engaged in rulemaking under the Administrative Procedures Act or other statute for the purpose of protecting the public health or safety, may waive the time period in paragraph (b)(2) of this section and publish a decision on the final rule simultaneously with publication of the notice of the availability of the final environmental impact statement as described in paragraph (a) of this section.

(c) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement is filed with the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently. However, subject to paragraph (d) of this section agencies shall allow not less than 45 days for comments on draft statements.

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency. (Also see § 1507.3(d).) Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days. When the Environmental Protection Agency reduces or extends any

period of time it shall notify the Council.

§ 1506.11 Emergencies.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

§ 1506.12 Effective date.

The effective date of these regulations is July 30, 1979, except that for agencies that administer programs that qualify under sec. 102(2)(D) of the Act or under sec. 104(h) of the Housing and Community Development Act of 1974 an additional four months shall be allowed for the State or local agencies to adopt their implementing procedures.

(a) These regulations shall apply to the fullest extent practicable to ongoing activities and environmental documents begun before the effective date. These regulations do not apply to an environmental impact statement or supplement if the draft statement was filed before the effective date of these regulations. No completed environmental documents need be rescinded by reasons of these regulations. Until these regulations are applicable, the Council's guidelines published in the *FEDERAL REGISTER* of August 1, 1973, shall continue to be applicable. In cases where these regulations are applicable the guidelines are superseded. However, nothing shall prevent an agency from proceeding under these regulations at an earlier time.

(b) NEPA shall continue to be applicable to actions begun before January 1, 1970, to the fullest extent possible.

PART 1507—AGENCY COMPLIANCE

Sec.

1507.1 Compliance.

1507.2 Agency Capability to Comply.

1507.3 Agency Procedures.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1507.1 Compliance.

All agencies of the Federal Government shall comply with these regulations. It is the intent of these regulations to allow each agency flexibility in adapting its implementing proce-

dures authorized by § 1507.3 to the requirements of other applicable laws.

§ 1507.2 Agency capability to comply.

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements enumerated below. Such compliance may include use of other's resources, but the using agency shall itself have sufficient capability to evaluate what others do for it. Agencies shall:

(a) Fulfill the requirements of Sec. 102(2)(A) of the Act to utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on the human environment. Agencies shall designate a person to be responsible for overall review of agency NEPA compliance.

(b) Identify methods and procedures required by Sec. 102(2)(B) to insure that presently unquantified environmental amenities and values may be given appropriate consideration.

(c) Prepare adequate environmental impact statements pursuant to Sec. 102(2)(C) and comment on statements in the areas where the agency has jurisdiction by law or special expertise or is authorized to develop and enforce environmental standards.

(d) Study, develop, and describe alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. This requirement of Sec. 102(2)(E) extends to all such proposals, not just the more limited scope of Sec. 102(2)(C)(iii) where the discussion of alternatives is confined to impact statements.

(e) Comply with the requirements of Sec. 102(2)(H) that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.

(f) Fulfill the requirements of sections 102(2)(F), 102(2)(G), and 102(2)(I), of the Act and of Executive Order 11514, Protection and Enhancement of Environmental Quality, Sec. 2.

§ 1507.3 Agency procedures.

(a) Not later than eight months after publication of these regulations as finally adopted in the FEDERAL REGISTER, or five months after the establishment of an agency, whichever shall come later, each agency shall as necessary adopt procedures to supplement these regulations. When the agency is a department, major subunits are encouraged (with the consent of the department) to adopt their own procedures. Such procedures shall not paraphrase these regulations. They shall

confine themselves to implementing procedures. Each agency shall consult with the Council while developing its procedures and before publishing them in the FEDERAL REGISTER for comment. Agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting similar information from applicants. The procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations. The Council shall complete its review within 30 days. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are encouraged to publish explanatory guidance for these regulations and their own procedures. Agencies shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.

(b) Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:

(1) Those procedures required by §§ 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), and 1508.4.

(2) Specific criteria for and identification of those typical classes of action:

(i) Which normally do require environmental impact statements.

(ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (§ 1508.4)).

(iii) Which normally require environmental assessments but not necessarily environmental impact statements.

(c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes, in order that the unclassified portions can be made available to the public.

(d) Agency procedures may provide for periods of time other than those presented in § 1506.10 when necessary to comply with other specific statutory requirements.

(e) Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by § 1501.7 may be published at a reasonable time in advance of preparation of the draft statement.

PART 1508—TERMINOLOGY AND INDEX

Sec.	
1508.1	Terminology.
1508.2	Act.
1508.3	Affecting.
1508.4	Categorical Exclusion.
1508.5	Cooperating Agency.
1508.6	Council.
1508.7	Cumulative Impact.
1508.8	Effects.
1508.9	Environmental Assessment.
1508.10	Environmental Document.
1508.11	Environmental Impact Statement.
1508.12	Federal Agency.
1508.13	Finding of No Significant Impact.
1508.14	Human Environment.
1508.15	Jurisdiction By Law.
1508.16	Lead Agency.
1508.17	Legislation.
1508.18	Major Federal Action.
1508.19	Matter.
1508.20	Mitigation.
1508.21	NEPA Process.
1508.22	Notice of Intent.
1508.23	Proposal.
1508.24	Referring Agency.
1508.25	Scope.
1508.26	Special Expertise.
1508.27	Significantly.
1508.28	Tiering.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1508.1 Terminology.

The terminology of this part shall be uniform throughout the Federal Government.

§ 1508.2 Act.

"Act" means the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et seq.*) which is also referred to as "NEPA."

§ 1508.3 Affecting.

"Affecting" means will or may have an effect on.

§ 1508.4 Categorical exclusion.

"Categorical Exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment

and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in § 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

§ 1508.5 Cooperating agency.

"Cooperating Agency" means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in § 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

§ 1508.6 Council.

"Council" means the Council on Environmental Quality established by Title II of the Act.

§ 1508.7 Cumulative impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

§ 1508.8 Effects.

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects

includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

§ 1508.9 Environmental assessment.

"Environmental Assessment":

(a) Means a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by sec. 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

§ 1508.10 Environmental document.

"Environmental document" includes the documents specified in § 1508.9 (environmental assessment), § 1508.11 (environmental impact statement), § 1508.13 (finding of no significant impact), and § 1508.22 (notice of intent).

§ 1508.11 Environmental impact statement.

"Environmental Impact Statement" means a detailed written statement as required by Sec. 102(2)(C) of the Act.

§ 1508.12 Federal agency.

"Federal agency" means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. It also includes for purposes of these regulations States and units of general local government and Indian tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974.

§ 1508.13 Finding of no significant impact.

"Finding of No Significant Impact" means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§ 1508.4), will not have a significant effect on the human environment and for which an environmental impact

statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

§ 1508.14 Human Environment.

"Human Environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (§ 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

§ 1508.15 Jurisdiction By Law.

"Jurisdiction by law" means agency authority to approve, veto, or finance all or part of the proposal.

§ 1508.16 Lead agency.

"Lead Agency" means the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement.

§ 1508.17 Legislation.

"Legislation" includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

§ 1508.18 Major Federal action.

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (§ 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (§§ 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

§ 1508.19 Matter.

"Matter" includes for purposes of Part 1504:

(a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in Section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major federal action to which section 102(2)(C) of NEPA applies.

§ 1508.20 Mitigation.

"Mitigation" includes:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

§ 1508.21 NEPA process.

"NEPA process" means all measures necessary for compliance with the requirements of Section 2 and Title I of NEPA.

§ 1508.22 Notice of intent.

"Notice of Intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

§ 1508.23 Proposal.

"Proposal" exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (§ 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

§ 1508.24 Referring agency.

"Referring agency" means the federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality.

§ 1508.25 Scope.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (§§ 1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(i) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include: (1) No action alternative. (2) Other reasonable courses of actions. (3) Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct. (2) Indirect. (3) Cumulative.

§ 1508.26 Special expertise.

"Special expertise" means statutory responsibility, agency mission, or related program experience.

§ 1508.27 Significantly.

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) *Context*. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity*. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect

may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

§ 1508.28 Tiering.

"Tiering" refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

INDEX

Act.....	1508.2
Action.....	1508.18, 1508.25
Action-forcing.....	1500.1, 1502.1
Adoption.....	1500.4(a), 1500.5(h), 1506.3
Affected Environment.....	1502.10(f), 1502.15
Affecting.....	1502.3, 1508.3
Agency Authority.....	1500.8
Agency Capability.....	1501.2(a), 1507.2
Agency Compliance.....	1507.1
Agency Procedures.....	1505.1, 1507.3
Agency Responsibility.....	1506.5
Alternatives.....	1501.2(c), 1502.2, 1502.10(e), 1502.14, 1505.1(e), 1505.2, 1507.2(d), 1508.25(b)
Appendices.....	1502.10(k), 1502.18, 1502.24
Applicant.....	1501.2(d)(1), 1501.4(b), 1501.8(a), 1502.19(b), 1503.1(a)(3), 1504.3(e), 1506.1(d), 1506.5(a), 1506.5(b)
Apply NEPA Early in the Process.....	1501.2
Categorical Exclusion.....	1500.4(p), 1500.5(k), 1501.4(a), 1507.3(b), 1508.4
Circulating of Environmental Impact Statement.....	1502.19, 1506.3
Classified Information.....	1507.3(c)
Clean Air Act.....	1504.1, 1508.19(a)
Combining Documents.....	1500.4(o), 1500.5(i), 1506.4
Commenting.....	1502.19, 1503.1, 1503.2, 1503.3, 1503.4, 1506.6(f)
Consultation Requirement.....	1500.4(k), 1500.5(g), 1501.7(a)(6), 1502.25
Context.....	1508.27(a)
Cooperating Agency.....	1500.5(b), 1501.1(b), 1501.5(c), 1501.5(f), 1501.6, 1503.1(a)(1), 1503.2, 1503.3, 1506.3(c), 1506.5(a), 1508.5
Cost-Benefit.....	1502.23
Council on Environmental Quality.....	1500.3, 1501.5(e), 1501.5(f), 1501.6(c), 1502.9(c)(4), 1504.1, 1504.2, 1504.3, 1506.6(f), 1506.9, 1508.10(e), 1508.11, 1507.3, 1508.6, 1508.24
Cover Sheet.....	1502.10(a), 1502.11
Cumulative Impact.....	1508.7, 1508.25(a), 1508.25(c)
Decisionmaking.....	1505.1, 1508.1
Decision points.....	1505.1(b)
Dependent.....	1508.25(a)
Draft Environmental Impact Statement.....	1502.9(a)
Early Application of NEPA.....	1501.2
Economic Effects.....	1508.8
Effective Date.....	1506.12
Effects.....	1502.16, 1508.8
Emergencies.....	1506.11
Endangered Species Act.....	1502.25, 1508.27(b)(9)
Energy.....	1502.16(e)
Environmental Assessment.....	1501.3, 1501.4(b), 1501.4(c), 1501.7(b)(3), 1506.2(b)(4), 1506.5(b), 1508.4, 1508.9, 1508.10, 1508.13

INDEX—Continued

Environmental Consequences.....	1502.10(g), 1502.18
Environmental Consultation Requirements.....	1500.4(k), 1500.5(g), 1501.7(a)(6), 1502.25, 1503.3(c)
Environmental Documents.....	1508.10
Environmental Impact Statement.....	1500.4, 1501.4(c), 1501.7, 1501.3, 1502.1, 1502.2, 1502.3, 1502.4, 1502.5, 1502.6, 1502.7, 1502.8, 1502.9, 1502.10, 1502.11, 1502.12, 1502.13, 1502.14, 1502.15, 1502.16, 1502.17, 1502.18, 1502.19, 1502.20, 1502.21, 1502.22, 1502.23, 1502.24, 1502.25, 1506.2(b)(4), 1506.3, 1506.8, 1508.11
Environmental Protection Agency.....	1502.11(f), 1504.1, 1504.3, 1506.7(c), 1506.9, 1506.10, 1508.19(a)
Environmental Review Requirements.....	1500.4(k), 1500.5(g), 1501.7(a)(6), 1502.25, 1503.3(c)
Expediter.....	1501.8(b)(2)
Federal Agency.....	1508.12
Filing.....	1506.9
Final Environmental Impact Statement.....	1502.9(b), 1503.1, 1503.4(b)
Finding of No Significant Impact.....	1500.3, 1500.4(q), 1500.5(i), 1501.4(e), 1508.13
Fish and Wildlife Coordination Act.....	1502.25
Format for Environmental Impact Statement.....	1502.10
Freedom of Information Act.....	1506.6(f)
Further Guidance.....	1506.7
Generic.....	1502.4(c)(2)
General Services Administration.....	1506.8(b)(5)
Geographic.....	1502.4(c)(1)
Graphics.....	1502.8
Handbook.....	1506.7(a)
Housing and Community Development Act.....	1506.12, 1508.12
Human Environment.....	1502.3, 1502.22, 1508.14
Impacts.....	1508.8, 1508.25(c)
Implementing the Decision.....	1505.3
Incomplete or Unavailable Information.....	1502.22
Incorporation by Reference.....	1500.4(j), 1502.21
Index.....	1502.10(j)
Indian Tribes.....	1501.2(d)(2), 1501.7(a)(1), 1502.15(c), 1503.1(a)(2)(ii), 1506.6(b)(3)(ii), 1508.5, 1508.12
Intensity.....	1508.27(b)
Interdisciplinary Preparation.....	1502.6, 1502.17
Interim Actions.....	1506.1
Joint Lead Agency.....	1501.5(b), 1506.2
Judicial Review.....	1500.3
Jurisdiction by Law.....	1508.15
Lead Agency.....	1500.5(c), 1501.1(c), 1501.5, 1501.6, 1501.7, 1501.8, 1504.3, 1506.2(b)(4), 1506.8(a), 1506.10(e), 1508.16
Legislation.....	1500.5(j), 1502.3, 1506.8, 1508.17, 1508.18(a)
Limitation on Action During NEPA Process.....	1508.1
List of Preparers.....	1502.10(h), 1502.17
Local or State.....	1500.4(n), 1500.5(h), 1501.2(d)(2), 1501.5(b), 1501.5(d), 1501.7(a)(1), 1501.8(c), 1502.16(c), 1503.1(a)(2), 1506.2(b), 1506.6(b)(3), 1508.5, 1508.12, 1508.18
Major Federal Action.....	1502.3, 1508.18
Mandate.....	1500.3
Matter.....	1504.1, 1504.2, 1504.3, 1508.19

INDEX—Continued

Methodology	1502.24
Mitigation	1502.14(h), 1502.16(h), 1503.3(d), 1505.2(c), 1506.3, 1508.20
Monitoring	1505.2(c), 1505.3
National Historic Preservation Act	1502.25
National Register of Historical Places	1508.27(b)(8)
Natural or Depletable Resource Requirements	1502.16(f)
Need for Action	1502.10(d), 1502.13
NEPA Process	1508.21
Non-Federal Sponsor	1501.2(d)
Notice of Intent	1501.7, 1507.3(e), 1508.22
OMB Circular A-95	1503.1(a)(2)(iii), 1505.2, 1506.6(b)(3)(i)
102 Monitor	1506.6(b)(2), 1506.7(c)
Ongoing Activities	1506.12
Page Limits	1500.4(a), 1501.7(b), 1502.7
Planning	1500.5(a), 1501.2(b), 1502.4(a), 1508.18
Policy	1500.2, 1502.4(b), 1508.18(a)
Program Environmental Impact Statement	1500.4(d), 1502.4, 1502.20, 1508.18
Programs	1502.4, 1508.18(b)
Projects	1508.18
Proposal	1502.4, 1502.5, 1506.8, 1508.23
Proposed Action	1502.10(e), 1502.14, 1508.2(c)
Public Health and Welfare	1504.1
Public Involvement	1501.4(e), 1503.1(a)(3), 1506.6
Purpose	1500.1, 1501.1, 1502.1, 1504.1
Purpose of Action	1502.10(d), 1502.13
Record of Decision	1506.2, 1506.1
Referrals	1504.1, 1504.2, 1504.3, 1506.3(d)
Referring Agency	1504.1, 1504.2, 1504.3
Response to Comments	1503.4
Rural Electrification Administration	1506.1(d)

INDEX—Continued

Scientific Accuracy	1502.24
Scope	1502.4(a), 1502.9(a), 1508.25
Scoping	1500.4(b), 1501.1(d), 1501.4(d), 1501.7, 1502.9(a), 1506.8(a)
Significantly	1502.3, 1508.27
Similar	1508.25
Small Business Associations	1506.6(b)(3)(vi)
Social Effects	1508.8
Special Expertise	1508.26
Specificity of Comments	1500.4(1), 1503.3
State and Area-wide Clearinghouses	1501.4(e)(2), 1503.1(a)(2)(iii), 1506.6(b)(3)(i)
State and Local	1500.4(n), 1500.3(h), 1501.2(d)(2), 1501.5(b), 1501.5(d), 1501.7(a)(1), 1501.8(c), 1502.16(c), 1503.1(a)(2), 1506.2(b), 1506.6(b)(3), 1508.5, 1508.12, 1508.18
State and Local Fiscal Assistance Act	1508.18(a)
Summary	1500.4(h), 1502.10(b), 1502.12
Supplements to Environmental Impact Statements	1502.9(c)
Table of Contents	1502.10(c)
Technological Development	1502.4(c)(3)
Terminology	1508.1
Tiering	1500.4(i), 1502.4(d), 1502.20, 1508.28
Time Limits	1500.5(e), 1501.1(e), 1501.7(b)(2), 1501.8
Timing	1502.4, 1502.5, 1506.10
Treaties	1508.17
When to Prepare an Environmental Impact Statement	1501.3
Wild and Scenic Rivers Act	1506.8(b)(ii)
Wilderness Act	1506.8(b)(ii)
Writing	1502.8

[FR Doc. 78-33362 Filed 11-27-78; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary
for
Community Planning and Development

24 CFR Parts 50, 58, 575 and 576

**EMERGENCY SHELTER GRANTS PROGRAM:
STEWART B. MCKINNEY HOMELESS
ASSISTANCE ACT**

FINAL RULE

as published in the

FEDERAL REGISTER

[53 FR 30186; August 10, 1988]

PART 58--ENVIRONMENTAL REVIEW PROCEDURES
COMMUNITY DEVELOPMENT BLOCK GRANT, RENTAL REHABILITATION
AND HOUSING DEVELOPMENT BLOCK GRANT PROGRAMS

3. The authority citation for 24 CFR Part 58 is revised to read as follows:

AUTHORITY: Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)); sec. 104(g) of title I, Housing and Community Development Act of 1974 (42 U.S.C. 5304(g)) as amended; sec. 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) as amended; secs. 17(i)(1) and (2) of the United States Housing Act of 1937 (42 U.S.C. 1437o(i)(1) and (2)); Executive Order 11514, Protection and Enhancement of Environmental Quality, March 5, 1970, as amended by Executive Order 11991, May 24, 1977.

4. Section 58.35 is amended by adding a new paragraph (a)(6), to read as follows:

§ 58.35 Categorically excluded activities

(a) * * *

(6) The following service, maintenance and administrative activities, to the extent eligible, which are undertaken to support housing and shelter programs for the homeless: the provision of physical or mental health, substance abuse, social, educational, or counseling services; the provision of meals or food; the payment of rent, utility, maintenance or administrative costs; and similar activities that do not use grant funds for making physical changes to buildings or sites.

5. 24 CFR Part 575 is amended, and a new 24 CFR Part 576 is added to read as follows:

PART 575 -- EMERGENCY SHELTER GRANTS PROGRAM

6. The Part heading of 24 CFR Part 575 is revised to read as follows:

PART 575 -- EMERGENCY SHELTER GRANTS PROGRAM: HOMELESS
HOUSING ACT OF 1986.

7. The authority citation for 24 CFR Part 575 is revised to read as follows:

AUTHORITY: Sec. 525(a) of the Homeless Housing Act of 1986 (sec. 101(g), Pub. L. 99-500 (approved October 18, 1986) and Pub. L. 99-591 (approved October 30, 1986), making appropriations as provided for in H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Representatives and by the Senate), to the extent and in the manner provided for in H. Rep. No. 977, 99th Cong., 2d Sess. (1986)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

CHAPTER 3.0 PROGRAM MANAGEMENT

3.1 RECORDKEEPING

Description: Recipients must be able to fully document all aspects of the MSCP grant program in order to demonstrate compliance with all applicable regulations. An organized recordkeeping or filing system will also facilitate obtaining information, tracking progress and accomplishments, and will help a program operate more smoothly. The filing system should be easy to use and provide a chronological account of the recipient's activities for examination and review by MSCP, auditors, and local staff.

Citation: 24 CFR 570.907 in the Community Development Block Grant Final Rule
OMB Circular A-102
Grant Agreement, Section 4.01
MSCP Financial Management Manual

Procedures: The filing system should be established on a program year basis (i.e., the fiscal year allocation under which the award was made). This will result in some duplication of files, but it will make use of the files much easier. To the extent possible, complete files should be maintained in one central location at the recipient's office especially when grant components are administered by various departments or sub-recipients.

The recipient shall maintain in accordance with OMB Circular A-102, and any EOCD regulations, procedures or guidelines, those books, records and documents (including but not limited to, payroll records, accounting records, and purchase orders) that are sufficient to document that activities carried out were in accordance with this Agreement, the primary objectives of the Housing and Community Development Act (Title I), as amended and any other applicable laws and regulations. Such records shall contain all information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income. The recipient shall maintain such records for a period of three (3) years from the date of approval of the recipient's Certification of Completion, or if such records become the subject of audit findings they shall be retained until such findings have been resolved, whichever is later.

The recipient shall make all books, accounts, records, reports, files, and other papers, things or property, that relate to its activities under this Agreement, available at all reasonable times for inspection, review, and audit by EOCD, its authorized representatives, authorized representatives of HUD, the Inspector General of the United States, or of the Commonwealth, the Auditor of the Commonwealth, and U.S. General Accounting Office. The Commonwealth reserves the right of the Governor or his designee, the Secretary of Administration and Finance, and the State Auditor and his designee, at reasonable times and upon reasonable notice, to examine the books, records and other compilations of data of the recipient which pertain to the performance of the provisions and requirements of this Agreement, as provided by Executive Order 195.

A. Grant Filing System

A suggested file system is outlined below. It identifies major file categories and the materials that should be contained in each file or sub-file. Recipients do not need to have a system which replicates this one although all of the information outlined below will be needed during the grant year. For grantees who have not yet organized their recordkeeping systems, the following file categories, if used and maintained correctly, will meet program requirements. Communities are encouraged to add files and sub-files as necessary.

Records must demonstrate :

- Compliance with laws and regulations
- Cost consciousness and accounting control
- Project implementation consistent with the law and the MSCP Grant Agreement. A recommended format for recordkeeping is provided below. The standards as presented provide the foundation for financial and program management.

Application File:

- Application
- Award letter

Grant Agreement File:

- Executed Copy of Grant Agreement
- Implementation Schedule
- Revised Component Description, if applicable
- Program Income Plan
- Recapture Policy
- Approved Budget (Budget Activity Code Sheet)
- Grant Extension approval letters
- Program or Budget Amendment approval letters
- Correspondence concerning any of the above or any other grant conditions

Citizen Participation File:

- Copy of Citizen Participation Plan
- Notices of public hearings and meetings
- Minutes of those meetings, including lists of persons attending
- Copies of brochures, flyers, guidebooks, handbooks, etc. prepared to inform and educate residents
- Copies of citizen complaints and resolution of those complaints

Environmental Review Record (ERR):

- Environmental Assessment/Environmental Review Checklist
- Copies of all data related to the assessment
- Copies of Notice of Finding of No Significant Impact (FONSI) published in local newspaper
- Copy of Notice of Intent to Request the Release of Funds (NOI/RROF) published in local newspaper
- Copy of Request for Release of Funds and Certification
- List of individuals/organizations to which the FONSI was sent and list of public posting of this notice
- Comments received regarding the above notices
- Copy of Environmental Assessment (or Environmental Impact Statement) and all supporting documents, as applicable)
- Copy of Request for Release Funds
- EOCD clearance letter
- Evidence documenting correspondence with Massachusetts Historic Commission
- Documentation of compliance with Flood Disaster Protection Act of 1973
- Updates to the ERR if a program amendment/change occurs

Equal Opportunity/Civil Rights/Fair Housing:

- Documentation of any action taken by the local government to overcome effects of past discrimination.
- Evidence that Fair Housing issues are dealt with on a regular basis (correspondence, minutes of meetings, records of other funds available, etc.)
- Evidence of contact with State Office of Minority and Women Business Assistance (SOMBWA)
- Data indicating minority or woman status of any person/firm that receives a contract of \$10,000 or more to be paid in whole or in part with MSCP funds. This includes housing rehabilitation contracts.
- Copies of community demographic/geographic profile and studies of special needs of minorities, women, elderly, etc.
- Beneficiary breakdown reports for each activity which includes breakdowns by race, ethnicity, age, handicap status, female headed households, number and percent of low income and moderate income persons and households, etc.
- Massachusetts Commission Against Discrimination (MCAD) correspondence, notices, and any Memoranda of Understanding (MOU's)
- Responses to issues such as Executive Order 215 (Exclusionary Zoning), if applicable
- Fair Housing Plan
- Affirmative Action Plan

Personnel Files:

- Copies of all advertisements and listings of where posted and organizations notified
- Copies of all resumes/applications received for each position
- Documentation of screening/evaluation process for each position
- Written employment practices, personnel policies, job descriptions
- Documentation related to hiring, firing, promotions, and other personnel actions

Financial Files:

- Designation of Depository Cards
- Signature Cards
- Attachment A to the Grant Agreement (which reflects original approved budget) and any subsequent amendments approved by MSCP
- SF-183 Request For Payments Forms
- Accounting Records
- Records of commitment of other funds leveraged
- Original source documentation (Invoices, Payrolls, etc.)
- Canceled checks, deposits slips, bank statements
- Documentation of procurement process and evaluations of proposals or bids for all goods and services

Audit File:

- Documentation of procurement process and evaluation of proposals for audit (to be provided by City Auditor/Town Accountant)
- Engagement letters from Certified Public Accountant (CPA)
- Copy of Audit Report
- Documentation that all audit findings, if any, have been cleared

General Files :

- Budget breakdowns for various activities. This might include funds committed, expended, obligated, leveraged, etc.
- Documentation supporting need for various components of the Small Cities Program (include pre-proposal needs documentation such as surveys and community profile analysis.)
- Documentation of National Objective claims and compliance with the objective chosen
- Documentation of marketing efforts
- Complete documentation of procurement process for any contracts awarded under the grant
- Project operating procedures or manuals
- All correspondence

Project Files:

- For Housing or Commercial Rehabilitation Programs, individual case files which include:
 - Completed Applications and Forms
 - Verification of Participants/Tenants Eligibility
 - Copies of property inspection reports, work write-ups, estimates, bids, change orders, etc.
 - All contracts and amendments
 - Evidence that tenants were notified of rental increase restrictions (i.e., rental agreements or letters of notification)
 - Documentation of the recording and discharging of liens or other method of protection from real estate speculation on
 - All related invoices and record of payment
 - Evidence of monitoring the terms of the rental agreement
- For all other types of activities (construction, non-construction or service contracts) include as applicable:
 - Copies of advertisements and public notices
 - Bid documentation
 - Contracts and amendments
 - Inspection reports or local monitoring reports
 - Subgrantee status reports (particularly for Social Services activities)
 - Requests for wage determinations
 - Proof that federal and state debarment status was checked.
 - Invoices
 - Pre-construction conference minutes
 - Certified payrolls
 - Evidence of employee interviews
 - Correspondence

Report Files:

- Quarterly Reports
- Internal monitoring of sub-grantees by the community
- Monitoring reports of sub-grantees
- Final close out report

Common Problems:

- Files poorly maintained or incomplete
- Information is difficult to locate due to inefficient filing system
- Files not separated by program year
- Information filed in other community office(s)

3.2 CIVIL RIGHTS and EQUAL EMPLOYMENT OPPORTUNITY

Citation: Section 109, Title I of the Housing and Community Development Act of 1974,
Public Law 93-383, as amended
Age Discrimination Act of 1975, as amended
Section 402 of the Vietnam Era Veteran Readjustment Assistance Act of 1974
Section 504 of the Rehabilitation Act of 1973, as amended
Executive Order 11246
Executive Order 227
Grant Agreement, Sections 4.08 and 4.12

Civil rights and equal employment laws are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age and handicap. The major laws and provisions, both federal and state, are summarized below.

Each grantee is required to comply with the state and federal regulations applicable to the program activities funded with federal funds. For example, employment and hiring practices and procurement of contracted services, selection process for federally funded program participants are subject to these regulations. Fair housing activities, also subject to these regulations, is described in Section 3.3.

To document compliance, grantees, at a minimum, must compile a file relating to civil rights, equal employment opportunity and fair housing. A list what these files should contain is in Section 3.1. The objective of the file documentation is to demonstrate the grantee's efforts to comply with the EEO/fair housing regulations governing federal funds. At a minimum, the grantee should have an Affirmative Action Plan, a Fair Housing Plan and information which clearly indicates the steps procedures and processes that were implemented and used to meet the intent of these laws. The separation of Civil Rights/EEO and Fair Housing has been done to provide clarification and ease of understanding.

- A. Program Design: Issues related to civil rights can be addressed beginning with the planning and design of the program. By collecting and analyzing information on housing, economic status and geographic distribution of minorities and other target groups within your community, you will be able to document your choice of target area or target population and substantiate that services and benefits are provided in a non-discriminatory manner.
- B. Employment Practices: Equal opportunity and affirmative action must also be provided by grantees in the recruitment, selection and compensation of employees. Grantees should document the hiring process and the evaluation of current employees. Special outreach should be made to notify minority or disadvantaged groups of employment opportunities.
- C. Contracts and sub-contracts: Nondiscrimination and affirmative action should be followed in awarding local construction and non-construction contracts. Although procurement must follow the regulations in OMB Circular A-102, Attachment O, recipients should document that additional efforts were made to notify eligible minority and women-owned firms of the contracting opportunities. These efforts should include contacting the State Office of Minority and Women Business Assistance (SOMWBA) at 100 Cambridge Street, 13th Floor, Boston, MA 02202, (617) 727-8692. SOMWBA can also provide a list of eligible minority businesses to aid you in your minority outreach efforts.

LAW	DISCRIMINATION PROHIBITED	COVERAGE
<p>TITLE VI - OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. 2000D.</p> <p>Nondiscrimination in programs or activities receiving federal financial assistance. Extends to all federal departments and agencies empowered to extend financial assistance to any program or activity by way of grant, loan or contract other than contract of insurance or guaranty.</p>	<p>No person in the United States shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Non-construction contracts (e.g. professional services contracts)</p> <p>Recruitment</p> <p>Program policies and guidelines</p>
<p>SECTION 109 OF TITLE I - HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED</p> <p>Nondiscrimination in any program or activity subject to the provision of this title.</p>	<p>No person in the United States shall on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or part under this Title.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Non-construction contracts (e.g. professional services contracts)</p> <p>Recruitment</p> <p>Program policies and guidelines</p>

LAW	DISCRIMINATION PROHIBITED	COVERAGE
<p>FAIR HOUSING AMENDMENTS ACT OF 1988, AMENDS TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968 to include prohibition against discrimination based on handicap and familial status.</p> <p>The Fair Housing Law provides protection against the following acts, if they are based on race, color, religion, sex, national origin, handicap or familial status:</p> <ul style="list-style-type: none"> ● Refusing to sell or rent to, deal or negotiate with any person. ● Discriminating in terms or conditions for buying or renting housing. ● Discriminating by advertising that housing is available to persons of a certain race, color, religion, sex, national origin, handicap or familial status. ● Denying that housing is available for inspection, sale or rent when it really is available. ● Persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood. ● Directing renters and prospective homebuyers to certain areas. 	<p>Race, color, religion, sex, national origin, handicap or familial status. Prohibitions contained in the Fair Housing Act apply to the following types of housing:</p> <ul style="list-style-type: none"> ● Single-Family housing owned by private individuals when: <ul style="list-style-type: none"> - A broker or other person in the business of selling or renting dwellings is used; - Discriminatory advertising is used; ● Single-family houses not owned by private individuals; ● Single-family houses owned by private individual who owns more than three such houses or who, in any two-year period, sells more than one in which the individual was not the most recent resident; ● Multi-family dwellings of five or more units; ● Multi-family dwellings containing four or fewer units, if the owner does not reside in one of the units. <p>NOT COVERED: The sale or rental of single-family houses owned by a private individual of three or fewer such single-family houses with certain conditions.</p> <ul style="list-style-type: none"> ● Rentals of rooms or units in owner-occupied multi-dwelling units for 2-4 families, if discriminatory advertising is not used. ● The sale, rental or occupancy of dwellings which a religious organization owns/operates for other than commercial purpose to persons of same religion. ● Limit to its own members rental/occupancy of lodgings owned by a private club for other than commercial purpose. 	<p>Construction contracts - housing</p> <p>Program policies and guidelines</p>

LAW	DISCRIMINATION PROHIBITED	COVERAGE
<p>SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED</p> <p>No otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds.</p>	<p>The grantees and subcontractors, if any, shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The grantee and any subcontractors, shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, color, religion, creed, sex or national origin.</p>	<p>Contracts (housing and non-housing)</p> <p>Employee Recruitment</p> <p>Program policies and guidelines</p> <p>Grantees activities shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship.</p>
<p>AGE DISCRIMINATION ACT OF 1975, AS AMENDED</p> <p>Provides that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.</p>	<p>No persons shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.</p> <p>Any prohibition against discrimination on the basis of age or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.</p>	<p>Construction contracts over \$10,000 (housing and non-housing)</p> <p>Non-construction contracts</p> <p>Program policies and guidelines</p>

LAW	DISCRIMINATION PROHIBITED	COVERAGE
<p>VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1974, SECTION 402</p> <p>Provides that no person shall be discriminated against because he or she is a disabled veteran or veteran of the Vietnam Era in regard to employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.</p>	<p>No person shall be discriminated against because he or she is a disabled veteran or veteran of the Vietnam Era.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Non-construction contracts</p> <p>Employee Recruitment</p> <p>Program policies and guidelines</p>
<p>EXECUTIVE ORDER 11246 - EQUAL OPPORTUNITY UNDER HUD CONTRACTS AND HUD ASSISTED CONSTRUCTION CONTRACTS</p> <p>Provides the grantee or any contractor (subcontractor) must agree not to discriminate against any employee or applicant for employment because of race, color, creed, religion, sex or national origin.</p>	<p>Discrimination because of race, color, creed, religion, sex or national origin.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Non-construction contracts</p> <p>Employee recruitment</p> <p>Program policies and guidelines</p>

LAW	DISCRIMINATION PROHIBITED	COVERAGE
<p>EXECUTIVE ORDER 11063 - EQUAL OPPORTUNITY IN HOUSING, AS AMENDED BY EXECUTIVE ORDER 12259</p> <p>Directs the grantee to take all action necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex or national origin, in the sale, leasing, rental and other disposition of real property and related facilities (including land to be developed for residential use), or the use or occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contributions from the federal government.</p>	<p>Race, color, religion, creed, sex or national origin</p>	<p>Construction contracts - housing</p> <p>Program policies and guidelines</p>

LAW	DISCRIMINATION PROHIBITED	COVERAGE
<p>SECTION 3 OF THE HUD ACT OF 1968, AS AMENDED IN 1980 BY SECTION 329(I) OF P.L. 96-399</p> <p>Section 3 provides that to the greatest extent feasible training and employment opportunities shall be made available to lower-income residents of the unit of local government or metropolitan area (or non-metropolitan county) in which the project is located, and that contracts be awarded to small businesses located within, or owned in substantial part by residents of the same metropolitan area (non-metropolitan county) as the project.</p>		<p>Construction contracts (housing and non-housing)</p> <p>Employee recruitment</p> <p>Program policies and guidelines</p>
<p>MASS. EXECUTIVE ORDER 227, CODE OF FAIR PRACTICES</p> <p>Specifically requires that grant recipients undertake affirmative action designed to eliminate patterns and practices of discrimination in employment and housing, due to race, color, sex, ancestry, national origin, marital status, children, religion and creed.</p>	<p>Discrimination in employment and housing on the basis of race, color, sex, ancestry, national origin, marital status, children, religion and creed.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Employee recruitment</p> <p>Program policies and guidelines</p>

LAW	DISCRIMINATION PROHIBITED	COVERAGE
<p>MASS. EXECUTIVE ORDER 237, MINORITY BUSINESS DEVELOPMENT</p> <p>Directs agencies of the Commonwealth to achieve the award of "at least 10% of the total dollar value of construction contracts" to minority business.</p>		<p>Construction contracts (housing and non-housing)</p> <p>Program policies and guidelines</p>
<p>MASSACHUSETTS GENERAL LAWS CHAPTER 151B</p> <p>This law prohibits discrimination in employment and housing, real estate transactions the granting of credit or mortgage loans, etc.</p>	<p>Unlawful discrimination because of race, color, religious creed, national origin, ancestry, age, sex, marital status, veterans history, public assistance recipient, blindness or deafness is prohibited under Chapter 151B.</p>	<p>Construction contracts (housing and non-housing)</p> <p>Non-construction contracts</p> <p>Program policies and guidelines</p>
<p>MASS. EXECUTIVE ORDER 215 "EXCLUSIONARY RULE"</p> <p>Directs all state agencies which administer development-related assistance programs to consider the applicant community's housing policies and practices.</p>		<p>Program policies and guidelines</p> <p>It will be the policy of state government that no grant awards be made to communities which have been determined to be unreasonably restrictive of new housing growth.</p>

These summaries should not be used as a substitute for the actual regulations, but rather as a guide to ensure applicable provisions are not overlooked. The ultimate responsibility for complying with all the requirements rests with the grantee and sub-contractors. If questions about a specific regulation arise, the grantee and its counsel should refer to the actual statute. It is important that the grantee document efforts to meet all affirmative action and civil rights requirements. Be sure to keep records of the minority status of program participants and contact with minority or women-owned firms. Include applicable provisions in all contracts, advertisements and policy guidelines.

INFORMATIONAL LISTING TO AID IN COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

The following information is provided to help you in fulfilling the civil rights requirements under the Small Cities program.

Contact Organizations for Women and Minority Owned Businesses

Boston Federal Executive Board
Office of Minority Business Enterprise (OMBE)
441 Stuart Street
Boston, MA 02116

Contractors Association of Boston, Inc.
25 Center Street
Roxbury, MA 02118
(617) 442-4680

State Office of Minority and Women Business Assistance (SOMWBA)
100 Cambridge Street
Boston, MA 02202
(617) 727-8692

Association of Minority Business Enterprise
P.O. Box 38
Kenmore Station
Boston, MA 02215

National Association of Women in Construction
Builders and Vendors, Inc.
P. O. Box 206
100 Windom Street
Allston, MA 02134
(617) 254-8220

Minority Newspapers and Publications

African-American

The Bay State Banner
925 Washington Street
Dorchester, MA 02124
(617) 288-4900

Asian (Chinese)

Sampan
18 Oxford Street
Boston, MA 02111
(617) 426-8673

Portuguese

Novidader Portuguese
105 Franklin Road
Somerset, MA 02726
(617) 679-6660

Hispanic and Latino

El Mundo
26 Bishop Richard Allen Drive
Cambridge, MA 02138
(617) 876-4293

La Semana
161 Harvard Avenue
Allston, MA 02134
(617) 787-2626

3.3 FAIR HOUSING

Citation: 24 CFR 14, Sections 100,103 - 106, 109-110, 115 and 121
24 CFR 200.600, *Affirmative Fair Marketing Regulations*
Section 504 of the *Housing Rehabilitation Act of 1973, as amended.*
Fair Housing Amendments Act of 1988
Executive Order 11063, as amended
Grant Agreement, Section 4.13

This section summarizes the regulations relating to fair housing policies and procedures to be adhered to by communities receiving MSCP funds.

Policies/Procedures:

Grantees should deal with fair housing issues on a continual basis. Efforts should be made to identify discriminatory housing patterns and alleviate them by working with developers, landlords, realtors, residents and government agencies. The development of a fair housing plan is important but it only works when used in tandem with a program to inform and educate the public of the requirements.

A. Massachusetts Commission Against Discrimination (MCAD):

Recipients who have a Memorandum of Understanding (MOU) with the Massachusetts Commission Against Discrimination (MCAD) to develop and implement a fair housing or affirmative action plan should keep a copy on file for public review. Also, these recipients should maintain documentation sufficient to prove that the provisions in the plan(s) are being implemented.

MCAD Compliance: MCAD reviews all applicants for MSCP funds and notifies EOCD of their civil rights compliance status. If your community is found to have a compliance determination of "non-concurrence" or "conditional concurrence" you will be notified by MCAD and EOCD. This determination and a requirement to come into compliance with MCAD requirements will be noted in Attachment B, Section C (Special Conditions) of your MSCP Grant Agreement. It is your responsibility to notify the MSCP office when you have complied with MCAD requests.

For additional information, contact:

Massachusetts Commission Against Discrimination
1 Ashburton Place
Boston, MA 02108
(617) 727-3990

B. Pertinent Federal and State Regulations Refer to the preceding tables for regulations relating to fair housing, civil rights and equal employment opportunities.

Affirmative Fair Housing Activities The Department of Housing and Urban Development, shortly after the enactment of Title VIII of the Civil Rights Act of 1968, published regulations designed to promote greater opportunities for persons to participate in its housing programs. These Affirmative Fair Housing Marketing Regulations (24 CFR 200.600) implement the Department's policy of assuring that persons of similar income levels in a housing market area have a like range of housing choices available to them regardless of race, color, religion, sex, or national origin.

The regulation provides for the development and implementation of an affirmative fair housing marketing plan. As part of this plan, participants in HUD housing programs carry out an affirmative program to attract buyers or tenants, regardless of sex, of all minority and majority groups to the housing. In addition, the Department requires program participants to identify any groups of persons who are not likely to be aware of the available housing and to undertake special marketing efforts designed to make such persons aware of the available housing and their ability to obtain it on a nondiscriminatory basis.

This law should be cited in all applicable contracts dealing with housing. Efforts should be made and documented to end discriminatory housing policies and to provide information to the general public regarding fair housing matters.

When rehabilitation of investor owner property takes place, the owner should be made aware of the requirements for fair housing/equal employment opportunity clauses in advertising for vacant units.

3.4 RELOCATION AND DISPLACEMENT

Citation: Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24), as amended.
Title I of the Housing and Community Development Act of 1974 (24 CFR Part 570), Section 104(d), as amended.
Relocation Assistance Regulations, Massachusetts General Laws Chapter 79A, as amended.
Grant Agreement, Section 4.19

This section summarizes grantee responsibilities when MSCP funds are used for assisted activities that will result in the displacement and relocation of tenants, homeowners, or businesses.

Statutory changes to the Uniform Relocation Act and CDBG program have expanded the protection available to low and moderate income persons who are displaced as a result of CDBG-assisted projects. It is MSCP's policy to discourage permanent displacement.

A knowledge of applicable requirements and careful planning prior to undertaking acquisition or relocation activities is essential to avoid serious compliance problems. Relocation needs, available replacement housing, and acquisition and relocation costs should be assessed. Good records, including copies of all written notices and evidence of their receipt, are necessary to demonstrate compliance.

REGULATIONS:

Federal regulations require that whenever there is a need to relocate property occupants on either a **permanent or temporary basis**, all affected occupants must be informed as early as possible about relocation payments and other assistance. Statutory changes in the Uniform Relocation Act of 1970 (URA) and the Housing and Community Development Act of 1974 (HCD Act), have expanded the protection available to building occupants displaced as a result of CDBG-assisted projects.

CDBG funds may be used to pay for relocation assistance. Assistance must be provided to both **displaced residential and nonresidential occupants** and must be applied according to a written policy that provides for like treatment of all persons in like circumstances.

A. Uniform Relocation Act:(URA)

The amendments of 1987 have expanded the URA's coverage to include all occupants -- residential (regardless of income) or business -- displaced as a result of federally-assisted public or private acquisition, rehabilitation or demolition and have increased the amount of relocation payments available. These provisions became effective April 2, 1989, and apply to all acquisition and relocation activities occurring on or after that date, regardless of the fiscal year in which funds were awarded.

B. Section 104(d) of the Housing and Community Development Act of 1974,as amended:

Section 104 (d) of the Housing and Community Development Act of 1974, as amended, requires every grantee to provide certain relocation assistance to any low/moderate income person permanently displaced from low/moderate income housing as a direct result of (1) the demolition

of any dwelling unit or (2) the conversion of a low/moderate income dwelling unit to a different use in connection with an assisted project or activity.

Under Section 104(d), the community must develop a written Residential Anti-displacement and Relocation Assistance Plan that includes anti-discrimination requirements. This plan must indicate the steps the community will take to:

1. minimize displacement
2. replace, on a one-for-one basis, all occupied and vacant occupiable low and moderate income housing units lost due to demolition or conversion
3. provide relocation assistance for displaced low and moderate income occupants

The community must make this plan available to the public and certify that it will be implemented, regardless of whether or not CDBG-funded activities actually involve the demolition or conversion of low and moderate income housing, to a use other than low and moderate income housing.

One-for-one replacement is not required if

- a. there is an adequate supply of vacant low and moderate income housing in standard condition available on a nondiscriminatory basis in the same area or within the larger community or
- b. if the lost housing was vacant and seriously deteriorated or dilapidated.

POLICIES/PROCEDURES

A. Planning

Each grant recipient should develop a relocation assistance plan that includes provisions for relocation protection, payments, and other assistance. The plan should take into consideration: the types of displacement activities anticipated, the availability and location of vacant replacement housing and housing accommodations for temporary relocation, the special needs of displaced occupants such as families with young children, the elderly or handicapped, and an evaluation of the resources necessary to carry out timely and orderly relocations activities.

Under the URA, a residential relocation assistance plan should, at the minimum, include:

1. Identification of the person acting as the relocation officer.
2. Standards used to determine decent, safe, and sanitary replacement housing.
3. The kinds of relocation payments/assistance available, eligibility criteria, procedures for obtaining payments/assistance, and sources of funding for payments/assistance.

4. An explanation of temporary relocation and protection including the right to continue in occupancy.
5. A grievance procedure.

Under Section 104 (d), the community must also develop a plan for **one-for-one replacement** that ensures that replacement housing will be:

1. Provided within 3 years of the commencement of the assisted activity.
2. Located within the same community.
3. Sufficient in number and size to house the same number of occupants as were in the lost units based upon local housing occupancy codes.
4. In standard condition or brought up to standard condition.
5. Designed to remain low and moderate income for at least 10 years.

Relocation assistance offered under Section 104 (d) is similar to that which is offered under the URA and includes advisory services, moving expenses, and replacement housing. However, Section 104 (d) also includes relocation payments for security deposits and security checks and provides for replacement housing assistance for a longer time period, 60 months versus 42 months under the URA.

B. Temporary Relocation for Residential Property Occupants

Whether or not occupants will be temporarily relocated from a residential dwelling undergoing rehabilitation depends upon the type of work being undertaken. In many instances the amount of proposed work is so limited that in-place rehabilitation is feasible. However, the greater the amount of rehabilitation work to be done, the less likely that tenants will be able to remain in a particular unit or building.

All tenants who will not be permanently displaced must be issued a **notice of right to continue in occupancy** informing them that they will be permitted to continue their tenancies. Tenants receiving this notice may either be temporarily relocated or, if the work is limited, expected to remain in their original units while the rehabilitation work is going on.

Whenever temporary relocation becomes necessary:

1. Tenants must be provided with suitable "temporary" housing. All reasonable expenses must be reimbursed including moving costs, any rent increases, and all reasonable out-of-pocket expenses.
2. Tenants cannot be required to stay with relatives or friends or otherwise provide for their own relocation needs while they are temporarily relocated. However, a tenant may voluntarily make her/his own temporary relocation arrangements. This choice does not preclude her/his receipt of other relocation payments or assistance.

3. Only one temporary move may be required and it cannot exceed one year.
4. The rent charged for the rehabilitated unit, once the tenant returns, is subject to the controls contained in the Grant Agreement between EOCD and the community.

Temporary relocation can often be difficult because many landlords are reluctant to rent units for short periods of time and, when the housing market is tight, suitable dwellings may be difficult to locate. In addition, hotel/motel accommodations, especially for families with children, can be very expensive. Relocation costs can be minimized in multi-unit buildings by rehabilitating vacant units first. Tenants can then be moved to vacant units within buildings or between buildings on the same site.

PLEASE NOTE: Owner-Occupants need not be relocated or provided with other forms of relocation assistance while their property is being rehabilitated. However, such expenses are CDBG-eligible and the community should decide whether or not to offer owner-occupants temporary relocation assistance and under what circumstances.

The next section discusses relocation regulations and procedures for occupants who are permanently displaced. Some of these regulations and procedures may also apply to temporary relocation cases.

C. Relocation Procedures for Permanent Displacement

Occupants facing displacement must be treated fairly and in such a way that relocation will not adversely affect their quality of life.

1. Manner of Notice

- (a) All notices should be written in plain, easily understood language with appropriate translation and counseling for persons who are unable to read or understand them.
- (b) All notices must be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in grantee files.
- (c) All written notices should include the name and telephone number of the relocation officer or other contact person who can offer assistance and answer questions.

2. Inform Occupant

- (a) Provide **general written information** to all occupants living in dwellings undergoing CDBG-assisted housing rehabilitation describing the community's relocation policy should they be displaced including relocation payments and services, basic conditions of eligibility, procedures for obtaining payments, and protection.
- (b) Provide **official notice of relocation eligibility** to occupants who will actually be displaced. This notice establishes an individual's eligibility for relocation assistance.

- (c) Provide at least **120 days advance written notice** (Chapter 79A) of the earliest date by which occupants must move.
- (d) In cases of urgent need, where 120 days advance notice is not possible, a copy of the community's determination of "urgent need" must be included in the appropriate case file.
- (e) No occupant of residential property can be required to move before comparable replacement housing is made available.

3. Work with Displaced Persons

- (a) Explain relocation payments and services, eligibility requirements, procedures for obtaining payments, protection, and grievance procedures.
- (b) Determine individual needs and preferences.
- (c) Encourage individuals not to move prematurely because it may adversely affect their relocation benefits.
- (d) Provide **advisory services** and make referrals to social service agencies or other organizations - for child care, counseling, rent subsidies, etc. -- as appropriate.

4. Make Referrals to Comparable Replacement Housing

- (a) An occupant of residential property cannot be required to move until she/he has been provided with a reasonable choice, generally 3 or more, of **comparable replacement housing**.
- (b) Comparable replacement housing must be (1) decent, safe, and sanitary, (2) functionally equivalent to the displacement dwelling, and (3) available to all persons on a nondiscriminatory basis.
- (c) Physical characteristics of comparable replacement housing may be dissimilar to those of the displacement dwelling but they may never be inferior or result in a lower quality of living style for the displaced occupant.
- (d) Send the occupant written notice of the purchase or rental cost of a specific comparable replacement dwelling. This amount is used as the basis for establishing the upper limit of the replacement housing assistance payment.

5. Move into Replacement Housing

- (a) The displaced occupant may choose replacement housing from among the 3 comparable replacement housing referrals or may seek replacement housing on her/his own.

- (b) In either case, replacement housing should be inspected prior to its occupancy to ensure that it meets all applicable safety and health standards.
- (c) If such an inspection is not done, the displaced occupant must be notified in writing that a replacement housing payment will not be paid unless and until the dwelling is inspected. If the property does not meet safety and health standards, the occupant must be notified that no housing payments will be made until either the property is upgraded to acceptable code levels or she/he moves to another property that does meet acceptable standards.

6. Process Claims and Make Payments

- (a) Displaced occupants should be informed as early as possible about their eligibility for relocation assistance and procedures for obtaining payments.
- (b) The community should assist individuals prepare and file claims. All claims should be filed within 18 months after displacement, or for acquisition, after the final acquisition payment is paid.
- (c) All claims must be supported by sufficient documentation to justify payment.
- (d) Payments should be issued promptly. If a claimant's eligibility for relocation payments or the amount claimed is denied, the community must notify the claimant in writing, explain the basis for the determination, and describe appeal procedures.
- (e) In order to avoid or minimize hardship, relocation payments for such expenses as rental deposits, settlement costs, moving costs, or utility deposits may be issued in advance. The amount of the advance payment can be deducted from the relocation payment to which the displaced person is otherwise entitled.

7. Payment for Relocation Expenses

- (a) A tenant displaced from residential property is eligible for 2 types of payments.
 - 1. **Moving and Related Expenses** based upon either a fixed moving and relocation allowance or payment for actual moving expenses and related costs.
 - 2. **Replacement Housing Payment** based upon either of 2 formulas.
 - i. Under the URA, an eligible displaced person who rents a replacement dwelling, is entitled to a payment equal to 42 times the amount obtained by subtracting the base monthly rent [the lesser of (a) monthly rent/utility costs at the displacement unit, (b) 30% of the person's average monthly gross household income or (c) the designated allowance for rent/utility costs if the person receives welfare assistance from a public agency] for the

displacement dwelling, from the lesser of (1) monthly rent/utilities for a comparable replacement dwelling or (2) the monthly rent/utilities for a decent safe and sanitary replacement dwelling actually occupied by the displaced person.

- ii. Under Section 104 (d), displaced low and moderate income persons must be offered rental assistance equal to 60 times the amount obtained by subtracting the Total Tenant Payment [the highest of (a) 30% of the family's monthly adjusted income, (b) 10% of the family's monthly gross income or (c) that portion of welfare assistance from a public agency that is designated to meet the family's housing costs] from the lessor of (1) the monthly rent/utilities for a comparable replacement dwelling or (2) the monthly rent/utilities for the actual decent, safe, and sanitary dwelling to which the person relocates.

- (b) Replacement housing payments may be made either in installments or lump sum.
- (c) Displaced low and moderate income occupants eligible for assistance under Section 104 (d) may elect, instead, to receive assistance under the URA provisions.

8. Appeals

Any aggrieved person may file a written appeal in any case in which she/he believes that a claim for relocation assistance was not properly considered. All grievances must be resolved expeditiously.

D. Recordkeeping Requirements

Accurate and complete relocation files must be maintained to demonstrate compliance with all federal and state regulations. The status of each unit occupant, whether she/he (1) remained in occupancy (not displaced or only temporarily relocated), (2) was permanently displaced and received relocation payments and assistance or (3) voluntarily elected to move permanently even though was not displaced, should be evident from these files.

- 1. A separate relocation file must be maintained on each tenant/household who was permanently displaced.
- 2. It is not necessary to maintain separate files on occupants who are not displaced, who are only temporarily relocated or who voluntarily move permanently when displacement will not occur. Documentation on these occupants may be included in their respective housing project/case files.
- 3. Eviction of occupants for cause must conform to applicable state and local laws and be documented to show that eviction was not used as a means to remove tenants from specific properties.

E. Business Relocation

Despite many similarities, business relocation and residential relocation do have a number of significant differences under the Uniform Relocation Act including:

1. A displaced homeowner or tenant must be relocated while a displaced business owner may choose either to remain in business or to go out of business.
2. A displaced business owner must receive assistance in finding comparable replacement locations to the extent that such sites are available. Displaced residential occupants have a right to comparable replacement housing and cannot be required to move unless such replacement housing is made available.
3. While displaced residential occupants must receive financial assistance to help pay the higher costs of replacement housing, business owners do not receive similar compensation for higher costs for buying or renting facilities.
4. It is not required that replacement business locations pass a decent, safe, and sanitary inspection before a relocation payment can be made. They must, however, comply with local health and safety codes.
5. Although all displaced occupants should receive individualized counseling and advice, such services tend to be of a more technical nature in business relocation than they are in residential relocation.

3.5 AMENDMENTS

Citation: MSCP Grant Agreement, Section 4.05

MSCP Grant Agreements incorporate each recipient's application for program funds. As a result, any significant alterations in program activities or budgets constitute an amendment to the Grant Agreement, which must be approved in advance by EOCD.

In the course of implementing a grant program, the grantee may utilize any and all of the following types of amendments. A community may propose to amend certain budget line items or program design to better address the needs of the community and its residents. A budget, or program amendment or case waivers comprise this section. **All amendments require prior EOCD approval unless otherwise noted.**

A budget transfer, or the transfer of funds from one activity to another that does not meet the criteria for budget amendments is noted below. This does not require prior EOCD approval.

Following are the definitions to be used when evaluating whether or not a proposed change in the grant program is an amendment:

Budget Amendment - Actual dollar change to one or more of the activities designated on the community's Budget Activity Code Sheet, over and above acceptable limits.

Waiver - Change to a specific project case in which the stated financial limits will be exceeded or a term or condition of the program is to be exempted. (See Section 3.6)

Program Amendment - Changes to the activities, or its design, as approved in the community's final approved application and grant agreement.

In general, EOCD will review amendments of any kind based upon the criteria noted below. It is not our intention to limit the recipient's flexibility in allocating its resources as it sees fit, but rather to allow that flexibility to be exercised consistently throughout the state. The criteria which will be used are as follows:

1. Request represents an unforeseen need or opportunity.
2. Proposed amendment supports the recipient's community development strategy.
3. Amendment will not undermine the local program's original goals.
4. Amendment will not significantly alter program impact and benefit to low and moderate income people.
5. Amendment meets national program objectives.
6. Amendment is for an activity which would not have significantly altered the applicant's rating if submitted as part of the original proposal.

In certain instances, a program or budget amendment may require a public hearing because its scope is so significant as to create a new line item and, therefore warrant public review and comment. EOCD will rule on these cases individually with the criteria in this section used as a guide.

A. Budget Transfers Budget transfers not requiring prior MSCP approval must meet the following criteria:

1. Amounts representing less than 10% of an activity budgeted at \$100,000 or more.
2. Amounts representing less than 20% of an activity budgeted at less than \$100,000.

Budgetary changes not requiring EOCD approval (transfers) should be noted on the quarterly report and also in the "remarks" section of the Request for Payment Form (SF-183). **However, any transfer of funds involving administrative dollars, whether program or general, require prior EOCD approval.**

B. Budget Amendments The following circumstances fall into the category of a budget amendment and, therefore, will require EOCD approval prior to actual implementation.

1. The addition of any new program or project activity beyond those authorized by EOCD in the grant award and grant agreement.
2. The deletion of any program activity authorized by EOCD in the original grant award/agreement.
3. Any change (addition or deletion) to the budget for General Administration.
4. Any change (addition or deletion) to the budget for Program Administration.

5. For Program Activities originally budgeted at \$100,000 or more, any budget change (addition or deletion) in excess of 10% of the budgeted activity, or which brings the cumulative total of changes to more than 10% of the total grant amount.
6. For program activities originally budgeted at less than \$100,000, any budget change (addition or deletion) in excess of 20% of the budgeted activity, or which brings the cumulative total of changes to more than 20% of the total grant amount.

C. Procedures for Submission of a Budget Amendment

1. Budget amendments must be submitted on the attached "MSCP Request for Budget Amendment Form." (Exhibit I)
2. Amendments should not be considered approved until the recipient has received this Form returned and signed by the MSCP Deputy Assistant Secretary.
3. To avoid delays in program implementation, recipients should allow sufficient time for MSCP deliberation prior to the proposed date of the change.

D. Program Amendments The following circumstances fall into the category of a program amendment and, therefore require EOCD approval prior to actual implementation.

1. An increase or decrease in the number of units to be achieved under a housing rehabilitation program or commercial improvements project, or a change in the dollar cap allowed per project.
2. An increase or decrease in achievement within a component of a sub-account, such as a change in the amount of curbing laid in a public facilities improvements project.
3. A change in program content of a sub-account such as changing from a curbing program to a landscaping program.

Since the determination for a formal program amendment relies on both quantitative and qualitative factors including the type of program and the rationale for the change, communities should contact their program representative whenever a change in program content is being considered to discuss whether a formal amendment is required. Any changes made which do not require a formal amendment should still be noted in the files and in the quarterly report.

E. Amendments Requiring a Public Hearing Significant material changes to the scope or objective of the final application and grant agreement (and any subsequent amended versions incorporated into the agreement) shall require that citizens be given reasonable notice and opportunity to comment on such changes.

EOCD has interpreted Section 104(a)(2)(e) of the Housing and Community Development Act of 1974 as follows: A public hearing will be required when:

1. An event or transaction is unusual, infrequent, and is clearly unrelated to the ordinary and typical activities defined in the agreement and any amended versions. The event or transaction should also be of the type that would not reasonably be expected to occur under the original terms of the grant and amended versions.
2. A single or cumulative change represents an addition or deletion of 15% or more to an account.
3. An activity is added or deleted.
4. A sub-account is added or deleted. An exception to this might include the combination of loan and grant sub-accounts, depending on the design of the original program.
5. A change to the target area.
6. Substantive changes to the program design (e.g., changes in financing mechanisms)
Examples of when a public hearing may or may not be needed:
 - a. A community originally proposed to repair three streets, but, because of severe conditions, find themselves able to reconstruct only one. Because the impact of the project is severely altered, a public hearing should be held.
 - b. A community originally proposed to repave 1800 linear feet of sidewalk and plant 20 trees, but, because of cost increases, find they must forgo the trees. In such a case, the community need not conduct a public hearing.
 - c. The community proposed to rehabilitate 40 housing units, but, because most units require substantially more work than originally estimated, the town can only do 20. A public hearing should be held in order to inform the residents of the change of goals.
 - d. The community originally proposed to rehabilitate 40 units but, due to poor participation, the town is able to rehab only 35 units. A public hearing is not necessary.
 - e. Community had originally allotted \$100,000 for housing grants and \$100,000 for housing loans. If the town decides to change the program to all loan assistance, a public hearing needs to be held.
 - f. Community had originally allotted \$100,000 for housing grants and \$100,000 for housing loans. If the town, due to demand, decides to transfer \$20,000 from the grants allocation to the loan pool, a public hearing would usually not be necessary, although a budget amendment would be needed.

F. Following are some common problems MSCP has come across when dealing with amendments:

- Not reporting budget transfers that are made during implementation of the project.
- Not seeking a budget or program amendment when one is warranted.
- Not convening a public hearing to allow local citizens to comment on a proposed change falling within the hearing criteria.

3.6 WAIVERS

Citation: MSCP Grant Agreement, Sections 2.02 and 4.05

Grantees are required to implement all program activities within the limits described in their final approved application for the General Fund and/or operating guidelines. However, there may arise extenuating circumstances which warrant a community to exceed its financial limit to assist a specific project.

A. Written requests for waivers must be submitted for each project to the MSCP prior to the grantee entering into a contractual agreement with the owner or prior to a change order in cases in which an emergency situation arises after rehabilitation commences.

B. **Requests must include:**

1. a copy of the work-write up and cost estimates
2. if available, bid documentation
3. an explanation of how, if at all, a waiver of the financial "cap" will affect the goals and implementation of the program activity.
4. a determination of why the property owner cannot meet the additional costs

C. **Considerations:**

1. Continuing cost estimates which exceed the financial limits or costs associated with rehabilitation work that are consistently higher may indicate that the grantee should request a program amendment to change its program design to reflect these higher costs
2. Exceeding the financial "cap" could negatively effect program goals. Thus, grantees should seek a program amendment if necessary.
3. MSCP may not accept requests for waivers if the office determines that such requests are excessive.
4. For those costs which exceed the financial cap, grantees are encouraged to impose a more stringent recapture provision.

D. **Examples:**

1. A housing rehabilitation case has gone out to bid to correct major code violations. The bids received exceed the current financial limits. A grantee may then request a waiver of the assistance limit for that specific case.
2. Once rehabilitation was started on a project, extensive dry rot was discovered. To remove and rebuild the effected area, the additional costs will exceed the present financial cap. A grantee may then request a waiver of the assistance limit for the specific case.

3.7 EXTENSIONS

Citation: MSCP Grant Agreement, Section 2.01

Grant recipients are responsible for completing all activities within the time limits imposed by the Grant Agreement. However, extenuating circumstances may warrant additional time to complete the program. Requests for time extensions will be considered and should be requested as outlined below.

- A. Written requests for time extensions must be submitted to the MSCP office no later than 30 days before the expiration date of the grant term to allow time for review. Under no circumstances should a recipient assume automatic approval.
- B. Requests must include the following information:
 - 1. Detailed discussion of the reasons behind the extension request, including the status of each major component and amount of time needed to complete each component.
 - 2. Staffing plan which indicates the positions involved, name(s) of staff, their responsibilities, full or part time status, and source of funds to cover salaries and other office expenses through the requested extension period.
 - 3. A revised implementation schedule which shows actual accomplishments to date and realistic projections for the extension period.
 - 4. When applicable, the effect on performance for other grants being run concurrently.

3.8 MONITORING

Citation: HUD Handbook 6509.2 REV-4
OMB A-102, Attachment I
24 CFR 570.900

Program Monitoring consists of: (1) an internal monitoring process by the grantee and (2) the annual MSCP review. The grantee internal monitoring process is a program management tool and enables it to maintain current and up-to-date information regarding budgets and expenditures, beneficiaries, program goals and accomplishments and prepares it for the MSCP monitoring.

A. Grantee Internal Monitoring:

Grantees must monitor their program in order to do the following:

1. supervise contractors and assure that work is on schedule and on budget.
2. control its operations for improved administration; and
3. inform EOCD of circumstances which affect project implementation.

To accomplish these objectives recipients should:

1. Review approved budget activity and establish specific objectives and expected accomplishments for each.
2. Provide measures of performance for the identified outputs.
3. Incorporate output measures and milestones into each contract and require periodic reports from contractors and/or visit project sites.
4. Monitor performance to assure that time schedules are being met, projected work units by time periods are being accomplished and other performance goals are being achieved.
5. Submit quarterly reports to the EOCD incorporating performance and financial data. Should events occur between reporting periods which significantly affect a program's performance the grantee should contact the MSCP.

Program performance may be affected by:

1. Problems, delays or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals or preclude the attainment of project work units within established time periods. This information must be accompanied by the recipient's recommendations for corrective action.
2. Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

MSCP grant recipients are responsible for subgrantee oversight. Sub-grantees are held responsible for and must comply with the same standards and regulations as the grantee.

B. Monitoring of Pre-Grant Activities

The monitoring of these activities involves the grantee ensuring that there is sufficient and proper documentation of pre-grant activities. There should be records pertaining to:

1. Documentation of public hearings and citizen input.
2. Any contract reimbursed with MSCP funds for preparing the application. If a contract was used, the grantee must document the method used for procurement and contractor selection process.
3. Copy of final application.
4. Notice by EOCD of grant award.

C. Grantee Monitoring of Management Activities

When monitoring management activities, the grantee should make sure that the following documentation is available for review:

1. Grant Agreement between EOCD and the grantee
 - copy of the grant agreement
 - copy of the bank depository card
 - copy of the authorized signature card
2. Administrative Responsibility
 - Record of the individual(s) assigned the responsibility for program administration
 - Copy of the contract executed with another public agency or private contractor for program administration, when applicable.
3. Personnel Administration
 - Copy of the written personnel policies.
 - If the grantee (and/or its contractor) hired under the MSCP grant, there must be documentation that all job advertisements contained an equal employment notice.
 - Sufficient personnel records to ensure that MSCP salary and travel expense payments were proper and that fair employment practice were followed.
4. Financial Management
 - A financial accounting system that is consistent with MSCP standards.
 - Appropriate property management standards and procedures have been followed.
 - Standards of OMB Circular A-102 and MSCP policy have been followed.
 - All costs were allowable.
 - All procurement/contract procedures are being adequately followed.

D. MSCP Monitoring

1. Pre-Monitoring or Technical Assistance Visit

The MSCP staff may elect to conduct a preliminary site visit to review the files, provide technical assistance prior to the official monitoring visit. The purpose of such a visit is to identify any problem areas/issues and resolve them prior to the more formal review process that is part of the program monitoring.

2. Program and Fiscal Monitoring

On an annual basis, or prior to the termination of a grant program, MSCP staff make reviews and audits as may be necessary or appropriate to determine whether or not the grantee (as well as sub-contractors) has carried out the activities and its certifications in accordance with the requirements and the primary objectives of the federal and state regulations, and whether or not the grantee has a continuing capacity to carry out those activities in a timely manner.

In conducting the reviews, MSCP will primarily rely on information obtained from grantee's quarterly reports, records maintained, findings from on-site monitoring and audit reports. Where applicable, MSCP may also consider relevant information pertaining to a grantee's performance gained from other sources, including litigation, citizen comments and other information provided by the grantee.

A. National Objective

All MSCP funded activities have to meet a national objective. A significant part of the program analysis is to determine whether or not the program activities are in compliance with the identified national objective. Grantees must maintain evidence that activities supported with CDBG funds meet one of the three national objectives.

B. Equal Opportunity and Fair Housing Review

As part of the monitoring process, the grantee's performance relative to equal opportunity and fair housing shall be reviewed. All grantees carry out its CDBG-funded program in compliance with civil rights certifications and civil rights requirements of the Act relating to equal employment opportunity, equal opportunity in services, benefits and participation, and is affirmatively furthering fair housing unless there is evidence the grantee, motivated by considerations of race, color, religion where applicable, sex, national origin, age or handicap, has treated some persons less favorably than others, or there is evidence of policies, procedures, standards or methods of administration which have an adverse effect on the provision of employment or services, benefits or participation to persons of a particular group.

Equal employment opportunity: All grantees shall comply with federal and state equal employment opportunity regulations unless there is evidence of a lack of employment, promotion, or training opportunities to any person within the groups identified. The extent to which persons of a particular race, gender, or ethnic background are

represented in the work force may in certain circumstances be considered, together with complaints, performance reviews, and other information.

Fair housing: All grantees shall certify that they will affirmatively further fair housing. As part of the review to determine compliance, any of the following actions on the part of the grantee will be considered in compliance: an analysis conducted to determine the impediments to fair housing choice in its housing and community development program and activities. The term "fair housing choice" means the ability of persons, regardless of race, color, religion, sex, or national origin, of similar income levels to have available to them the same housing choices.

C. Fiscal Review Factors

The fiscal review of a grantee's program will be based on the following: OMB Circular A-87, A-102, Attachments E, Program Income; I, Monitoring and Reporting Program Performance; G, Standards for Grantee Financial Management System; N, Property Management Standards; and O, Procurement Standards; US Treasury Circular 1075 (as interpreted by MSCP policy) , the fiscal requirements of HUD CDBG, the state's program regulations, and EOCD fiscal requirements and procedures.

D. Results of the Reviews - Findings versus Recommendations

Findings: After the monitoring, in some instances, incidents of non-compliance with applicable regulations or approved program guidelines are discovered. These are called findings. Should a finding be identified, it is described and an explanation of the determination is made. The monitoring letter which is a summarization of the program evaluation is sent to the Chief Elected Official. In those cases where a finding has been determined, the grantee has 30 days from the receipt of the correspondence to comply with the corrective actions.

Recommendations: Recommendations are suggestions that a program representative includes in the monitoring letter as a form of technical assistance. As suggestions, they are for consideration only. If the grantee determines that these suggestions are useful they may be incorporated, if possible, in the current program. Otherwise, they may be included in future program designs or policies and procedures.

3.9 QUARTERLY REPORTS

According to Section 2.05 of the Grant Agreement, grantees are required to submit progress reports every 3 months to EOCD for the duration of the grant. Separate reports should be submitted for each program year and for each different CDBG funded program. For example, communities receiving both FY 1990 General Fund and FY 1990 EDSA need to submit 2 reports each quarter.

Quarterly reports (Exhibit II) are due within ten (10) days of the close of each quarter. Quarterly reports are due on the following dates:

<u>Period Ending</u>	<u>Report Due</u>
March 31	April 10
June 30	July 10
September 30	October 10
December 31	January 10
January 31 (end of grant term)	February 28

Communities receiving an extension to their program should continue to submit reports on the above dates for the duration of the grant program. At the end of a grant, the last report, due thirty (30) days after grant termination, is considered the Final Quarterly Report and should be completed. Note that there are additional pages to the Final Quarterly Report which form the Close-Out Report (See Section 3.13)

Communities are urged to plan schedules so that reports are received by EOCD on time. If the Quarterly Report is not received by the appropriate due date EOCD may withhold Requests for Payment until the report is received. Any community anticipating a delay should contact their Program or Fiscal Representative to notify them of the delay.

The complete report consists of the following forms:

- A Certification by the Chief Elected Official or duly authorized signatory
- B Activity Schedule
- C Narrative Description
- D-1 Breakdown of Finances
- D-2 Program Income Report (Required when applicable)
- E Beneficiary Breakdown
- F Contract and Subcontract Activity

and when the Final Quarterly Report is filed, the following are added to create the Close-Out Report:

- G Final Statement of Program Costs and Computation of Grant Balance and
- H MSCP Property Management Register are to be included.

A lengthier discussion on Grant Closeout is found in Section 3.13 of this chapter. The forms can be found in Exhibit III.

An original, signed by the Chief Elected Official or duly authorized signatory and two copies of each report must be submitted each quarter.

Instructions for each form are now included directly on the form. Should you have any questions on completing these forms please contact your program representative. Incorrectly completed forms will not be accepted and may result in withholding payments.

3.10 COMPLAINTS

It is the intent of the MSCP to ensure that program participants are afforded the opportunity for fair and equitable treatment and resolution of disputes. MSCP policy is to have dispute resolution occur at the local level. However, if a problem remains unresolved after all steps of the local grievance procedure are exhausted, then the complainant may be referred to MSCP for further assistance.

Once involved, the MSCP acts as mediator, working with both the complainant and the grantee community to reach a mutually agreed upon resolution of the issue.

All grantees are required to have a grievance/dispute resolution procedure that is included in the program design, and contracts and made available to program participants.

The grantee must ensure that it maintains clear, concise and adequate documentation of the issues that are germane to the complaint, the actions and efforts taken to resolve the dispute and the results of those actions.

3.11 GRANT TERMINATION

EOCD reserves the right to recapture funds from a community or to terminate a Grant Agreement when it determines that such action is necessary to safeguard public funds. Several examples of activities which may lead to termination are provided for your assistance, but should not be considered all inclusive. A grant may be suspended or terminated for a variety of reasons including, but not limited to:

A. Evidence of fraud or abuse

In cases of fraud, abuse or serious non-compliance, EOCD may suspend or terminate the grant immediately without further authorization, move to recapture unexpended funds, and/or require repayment of any funds expended in an illegal or unauthorized manner. Cases of fraud, abuse, or non-compliance will not be excused because of the failure of EOCD to specifically define such instances, nor upon a claim of ignorance of the law by a recipient.

Examples of Fraud, Abuse or Non-Compliance:

- Funding an ineligible activity when there is prior knowledge of that activity's ineligibility
- Salary payments to non-CDBG related personnel
- Depositing funds into personal or non-designated bank accounts
- Payoff or kickbacks to contractors
- Refusal to abide by regulations set forth by HUD or EOCD.

B. Non-compliance with federal, state or local laws

C. Non-compliance with regulations or procedures established by EOCD

D. A determination by EOCD of poor performance

During the period of program performance MSCP personnel will conduct one or more in depth reviews of program performance, paying particular attention to the expenditure of funds and timely accomplishments towards program goals as outlined in the final approved application and Grant Agreement. Program performance will also be monitored through other periodic, on-site visits and quarterly reports. While EOCD will not establish arbitrary numerical standards for measuring progress, it will compare a recipient's progress with other comparably sized communities and programs. Where performance is found to be inadequate EOCD may move to terminate the grant agreement and recapture unexpended funds.

Examples of Poor Performance:

- Severe lack of progress towards attainment of goals;
- Frequency of staff turnover prohibiting attainment of goals within a reasonable extension period;
- Substantial lack of progress in the expenditure of funds.

E. Agreement between the recipient and EOCD that the continuation of the program is infeasible or would not produce beneficial results

- F. A determination that such action is necessary to safeguard public funds
- G. When there is question on the feasibility of a project

If a project becomes unfeasible due to natural or man-made disasters, insufficient management capacity, non-interest, neglect, legal obstacles or inadequate financing, EOCD may terminate the grant and move to recapture unexpended funds.

Examples of Infeasible Projects:

- Non-issuance of permits from another agency (e.g., DPW, DEQE) required to undertake the funded project
- Withdrawal of funds from other sources, public or private, which are necessary to begin or complete a funded activity
- An increase in development costs beyond the ability of the program to sustain the project
- Legal action from residents or other interested parties which might delay the project for an extended period
- expired grant term

- H. When EOCD determines that the recapture of funds is warranted, the following process will be initiated:

1. Memorandum from MSCP staff to Assistant Secretary outlining circumstances surrounding recommended recapture.
2. Letter from EOCD to the Grantee's Chief Elected Official or duly authorized signatory outlining:
 - a. reasons for determination;
 - b. effective date of termination and/or recapture;
 - c. action to be taken by termination and/or recapture;
 - d. action to be taken by the grantee and,
 - e. notification of right to request a hearing. A decision as to whether any activities will be allowed to continue will be made at that time.
3. The grantee must respond within ten (10) days of receipt of this letter.
4. If there is no response, or if the grantee does not object to the recapture, EOCD shall forward final notification specifying the effective date of termination or recapture. The grantee must return any unexpended funds on hand subject to the recapture within 30 days.
5. If the grantee requests a hearing, it will be scheduled, if feasible, within 30 days from receipt of the request. At this hearing, the grantee and any interested party may present evidence as to why the Grant Agreement should not be terminated.

6. A final determination will be made within 30 days of the date of the hearing and the grantee notified in writing of the decision. Should the decision result in the determination to terminate the grant and/or recapture funds, the grantee will be instructed to return any unexpended and unobligated funds to EOCD within 30 days.

In the event that only a portion of the total MSCP grant is being considered for recapture, the process outlined above will still apply. At the discretion of EOCD, the grantee may be allowed to continue those activities not subject to recapture. Also, any amount paid under the grant agreement which are found to constitute unallowable expenditures shall be reimbursed to EOCD by the grantee, regardless of whether the grant is terminated or from a recapture proceeding undertaken by EOCD.

3.12 GRANT CLOSE-OUT

Thirty days after the grant program has been completed, the grantee is required to submit close-out documents to the MSCP office. As part of that process, grantees should review their records to determine that the following activities have been completed:

- A. All costs to be covered by MSCP grant funds have been incurred with the exception of closeout costs (up to \$5,000 which the grantee expects to expend on eligible CDBG costs) such as the payment for the audit, and any unsettled third party claims against the grantee. Costs are considered incurred when goods and services are received and contract work is performed. With respect to activities (such as the rehabilitation of privately owned properties) which are carried out through a revolving loan account, escrow account, or other similar mechanism, costs shall be considered incurred when initially used for the purpose described in the grant agreement (attachment A).
- B. All required quarterly reports have been submitted and accepted as complete;
- C. All MSCP program and fiscal monitoring findings have been resolved to the satisfaction of EOCD;
- D. All prior audit findings have been resolved;
- E. All other responsibilities under the grant agreement have been carried out to the satisfaction of EOCD.
- F. Prepare the Final Quarterly Activity Report

Grantees are required to prepare a Final Quarterly Report as part of grant close-out. Please refer to preceding section for the Quarterly Report instructions. The Final Quarterly Report will have some minor differences from reports previously submitted to EOCD. The Breakdown of Finances - Program Income, Part D-2, must also include an amount in column 6a which reports all program income expended on the current program, from award to completion. This figure should also be included in the total year to date cumulative expenditures in Part D-1. Part D-2 should agree with the final statement of costs/computation of grant balance column 2, line 2 of the Certification of Completion. Part D should agree with column 2, line 1.

Grantees are required to prepare the attached property management report in conformity with the accompanying MSCP instructions. This report must be submitted to MSCP within thirty (30) days. Attach this report with the final report and the certification of completion.

- G. Prepare MSCP Closeout Reports

Upon review of grant performance and completion of Final Quarterly Report the grantee shall prepare an original and two copies with original signatures of Part G, Final Statement of Costs. This form summarizes all costs incurred by the program paid by the MSCP funds and program income. If grant funds received exceed grant costs including unpaid costs and any unsettled third party claims, the grantee shall send a check for the amount of excess grant payments made payable to EOCD.

Upon receipt and approval of the Grantee's Final Statement of Costs and a check for excess grant payments, when applicable, EOCD will request that all necessary adjustments be made to the grantees letter of credit. EOCD will also monitor funds earmarked for the payment of unpaid costs and third party claims. If no unsettled third party claims were included on the Final Statement of Costs, EOCD will proceed to close out the grantee's grant. If unsettled third party claims were included, the grantee, upon resolution of these claims must submit a revised Final Statement of Costs for EOCD review and approval before the project can be completely closed out.

EOCD will then issue the "Final Agreement" for signature by the Chief Elected Official and EOCD's Assistant Secretary indicating final closeout of the grant program.

INSTRUCTIONS FOR PREPARING THE MSCP/FINAL STATEMENT OF COSTS AND COMPUTATION OF GRANT BALANCE

Form Title: FINAL STATEMENT OF COST AND COMPUTATION OF GRANT BALANCE

Section A. Use the Final Quarterly Report Cover Sheet

Section B. Final Statement of Cost and Computation of Grant Balance

Column 2. Paid Costs:

Column 3. Enter the following:

Line 1: Enter the total amount shown on the Final Quarterly Report, Part D-1 Cumulative Expenditures to date.

Line 2: Enter the total program income amount applied from Part D-2 of the Final Quarterly Report.

Line 3: Line 1 minus line 2

Line 4: Enter the total sum of Unsettled Third Party Claims

Line 5: Subtract line 4 from line 3.

Line 6: Enter the amount of per the Grant Agreement.

Line 8: Enter the amount of grant funds received to date through a letter of credit or other grant disbursement mechanism.

Column 4. Sum of Columns 2 and 3.

Column 5. For EOCD use only - Leave Blank.

Section C. UNPAID COSTS AND UNSETTLED THIRD PARTY CLAIMS

List any unpaid costs and unsettled third party claims, and describe the circumstances and amounts involved. The total amount of unpaid costs must equal the amount shown in Section B, Column (3), and the total amount of unsettled third party claims described must equal the amount shown in Section 3, Column 3 - Line 4.

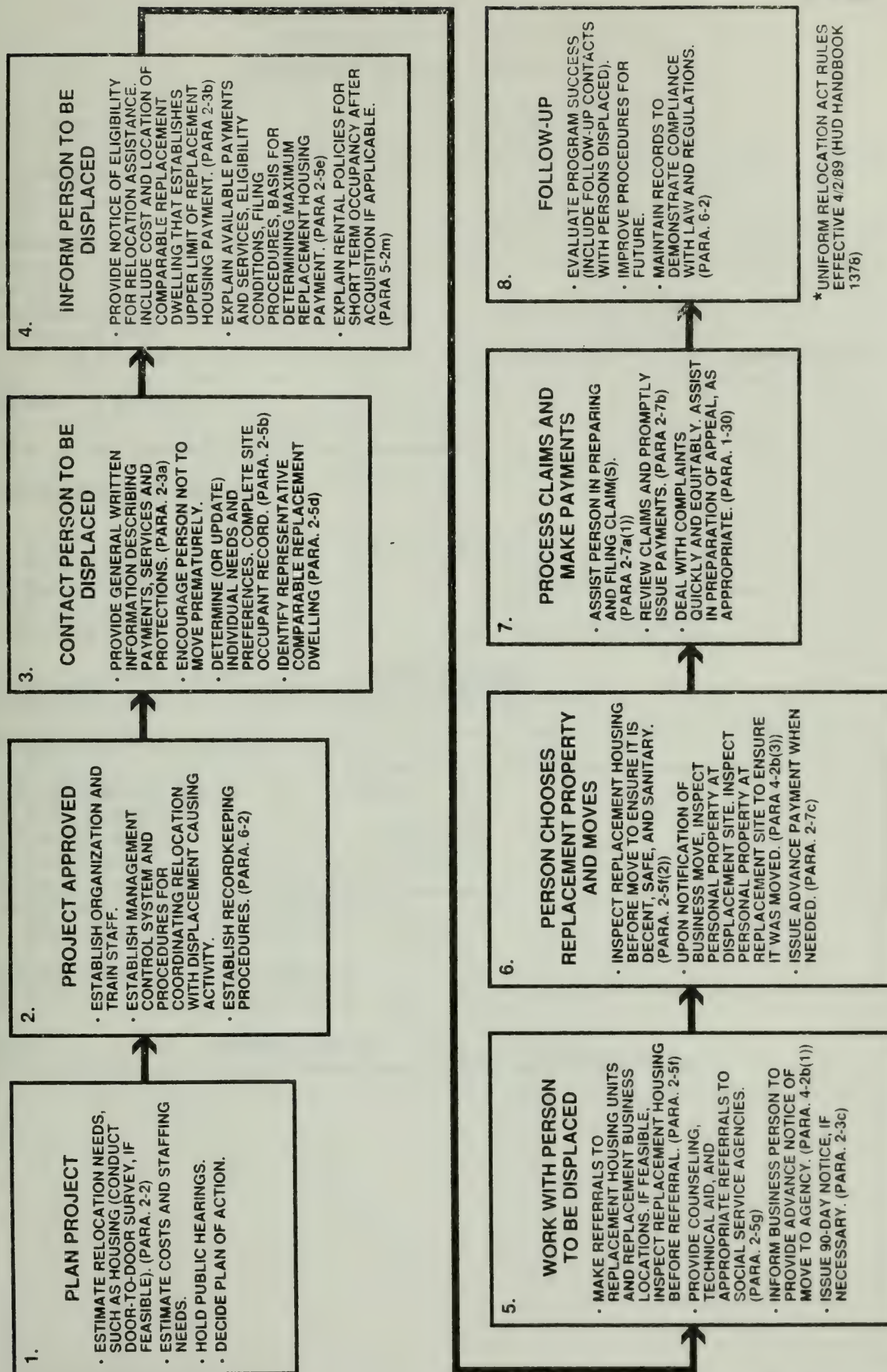
Section D. REMARKS: Self explanatory.

Section E. CERTIFICATION OF GRANTEE

Signature of the Chief Elected Official.

Section F. EOCD APPROVAL - For EOCD Use Only PLEASE LEAVE BLANK

Relocation Process Under the URA*



* UNIFORM RELOCATION ACT RULES
EFFECTIVE 4/2/89 (HUD HANDBOOK
1376)

* RENTAL ASSISTANCE PAYMENT (M. '5)

"BASE MONTHLY RENT DETERMINATION" (for "old unit") [402(b)(2)]

***RENTAL PAYMENT DETERMINATION* [.402(b)(1)]**

Payment under the Unif. Act is \$5,250 + "Financial Means" [.2(d)(8)] as LAST RESORT HOUSING.

Homeowner Payment is \$22,500 under the Unif. Act + "Financial Means" [.2(d)(8)] as LAST RESORT HOUSING

* * **DOWNPAYMENT** [Compute under Rental Assistance Payment- .402(c)]

TENANT who purchases a unit is entitled to Downpayment in the amount received under Rental Assistance Payment, **EXCEPT** you do **NOT** use the New Rent factor in the Rental Assistance Computation. [.402(c)(1)]

- 1-Example: (1) If Rental Assistance Payment computes to \$1,000. (See Optional Form R3-M)
(2) Then the Payment is \$1,000...OR...it can be increased to \$5,250. (If increased- use policy letter.)

- 2-Example: (1) If Rental Assistance Payment computes to \$6,000. (See Optional Form R3-M)
(2) Then the Payment is \$6,000. [\$5,250 Unif. Act + \$750 Last Resort Hsg. = \$6,000]

HOMEOWNER-OCCUPANT(less than 180 days) who purchases a unit is entitled to Downpayment under Rental Assistance Payment, **EXCEPT** you do not use the New Rent factor in the Rental assistance Computation. [.402(c)(1)]

- 3-Example: (1) Rental Assistance Payment computes to \$8,000. (See Optional Form R3-M)
(2) 180 Day Homeowner Payment computes to \$7,000.
(3) Payment is \$7,000.

COMPUTING RENTAL ASSISTANCE PAYMENT

- 4 Case Examples & 1 Worksheet -

Monthly Rent & Utilities	81	82	83	84	YOUR WORKSHEET
OLD Rent & Utilities [.402(b)]	\$300	\$350	\$250	\$250	\$
NEW " " [.402(b)(11)]	\$450	\$500	\$500	\$300	\$
COMPARABLE Rent & Utilities	\$400	\$400	\$440	\$200	\$
Monthly Household Gross Income	\$1333.35	\$833.35	\$833.35	\$666.69	\$
30% of the above Gross Income	\$400	\$250	\$250	\$200	\$

NOTE: ONLY THIS "NEW RENT" ENTRY WHEN COMPUTING UNDER "DOWNPAYMENT"

- THE FOLLOWING ARE EXAMPLE COMPUTATIONS OF THE ABOVE 4 CASES -

CASE NUMBERS	[.402(b)(11)] NEW RENT...OR...COMPARABLE (whichever is less)	[.402(b)(1)] OLD RENT...OR...30% OF GROSS INCOME (whichever is less)	[.402(b)(2)(11)] NOTIALLY REP	8's	42 MONTHS	8's	42 MONTHS	Means" [.2(d)(8)] = 's	Within Financial
81	\$400 - (minus): \$300		\$100	8's	42	8's	\$1200	+	\$0
82	\$400 - (minus): \$250		\$150	8's	42	8's	\$5250	+	\$1050 (\$6300)
83	\$440 - (minus): \$210		\$130	8's	42	8's	\$5250	+	\$210 (\$5460)
84	\$200 - (minus): \$200		\$0	8's	42	8's	\$0	+	\$0

NOTE: ONLY "NEW RENT" ENTRY WHEN COMPUTING UNDER "DOWNPAYMENT"

ONE USA	\$	- (minus): \$	8's	42	8's	\$
---------	----	---------------	-----	----	-----	----

NOTE: ONLY "NEW RENT" ENTRY WHEN COMPUTING UNDER "DOWNPAYMENT"

MSCP BUDGET CODE SHEET

COMMUNITY:	ORIGINAL BUDGET:
PROG.NAME/YR.:	AMENDMENT #:
AUTHORIZED SIGNATURE:	DATE:

CODE	ACTIVITY	AMOUNT	CODE	ACTIVITY	AMOUNT
1	PROP. ACQUIS.		5F	ED Non-Profits	
2	CLEAR./DEMOL.		5G	ED Other	
3	RELOCATION		6	PUBLIC FACILITIES	
4	HOUSING REHAB.		6A	PF Admin.	
4A	HR Admin.		6B	PF Sts./Sidewalks	
4B	HR Unit Develop.		6C	PF Parks/Recreation	
4C	HR Loans		6D	PF Neigh. Facil.	
4D	HR Grants		6E	PF Parking	
4E	Housing Counseling		6F	PF Water/Sewer	
4F	HR Other		6G	PF Drainage	
5	ECON. DEVELOPMENT		6H	PF Arch. Barriers	
5A	ED Admin.		6I	PF Other	
5B	ED Acquisition		7	OTHER	
5C	ED Comm. Improv.		8	SOCIAL SERVICES	
5D	ED Indust. Improv.		9	GENERAL ADMIN.	
5E	ED Public Facil.		TOTAL MSCP BUDGET		

BUDGET AMENDMENT					
	Activity Code	Amount		Activity Code	Amount
From:		\$	To:		
From:		\$	To:		
From:		\$	To:		
From:		\$	To:		

COMMENTS

EOCD APPROVAL			
Deputy Director	Date:	Deputy Asst. Secretary	Date:

Exhibit IV

CERTIFICATION
Part A

COMMUNITY _____

Period covered by this report: ____/____/____ to ____/____/____

QUARTERLY REPORT # _____ for FY _____

Person compiling data for this report:

_____ Phone # _____

Community Certification

I certify that, to the best of my knowledge, this quarterly report is accurate, that the Massachusetts Small Cities Program funds have not been used to reduce local support for community development activities, and that the above cited Massachusetts Small Cities Program grant has been administered in full compliance with the agreed upon terms.

Chief Elected Official _____

Date _____

AMENDMENTS

List below any and ALL amendments to your grant and the EOCD approval date. This list should be cumulative from the beginning of the grant term. Include approved extensions, program and monetary changes.

AMENDMENT (brief description) _____

EOCD Approval Date _____

* YOU MUST SUBMIT THREE (3) COPIES OF THIS REPORT *

NARRATIVE DESCRIPTION
Part C

COMMUNITY _____

Report # _____ for FY _____

Period Ending ____/____/____

INSTRUCTIONS

- 1) List each major activity funded and give an informative narrative of accomplishments/progress THIS QUARTER.
- 2) Highlight problems and steps taken to resolve the problems.
- 3) If there has been no progress, indicate so and the reasons why.
- 4) If a project is complete, indicate so.
- 5) List major administrative tasks undertaken, as applicable. These may be directly related or complementary to the current MSCP grant.
(Examples include: Submission of EDSA application, merchant survey to assess economic development needs, or completion of subgrantee negotiations and contracts.
- 6) DO NOT SEND A PHOTOCOPY OF THE PREVIOUS QUARTER'S NARRATIVE.

ACTIVITY	DESCRIPTION
----------	-------------

Massachusetts Small Cities Program - Quarterly Activity Report
ACTIVITY SCHEDULE
Part B

Rev. 1-78

COMMUNITY _____

QUARTERLY REPORT # _____ for FY _____

PERIOD ENDING ____/____/____

PROGRAM ACTIVITY (Code # & Title)	1st Quarter (Nov - Dec)		2nd Quarter (Jan - Mar)		3rd Quarter (Apr - Jun)		4th Quarter (Jul - Sep)		5th Quarter (Oct - Dec)		Year-to-Date CUMULATIVE
	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual

INSTRUCTIONS

- 1) Fill in your projected (Proj) accomplishments for the 15-month grant term using the milestones found on your approved schedule. A list of the milestones is provided in the application package. If other milestones seem more appropriate consult with your program representative. Note that the schedule above reflects only 14 months. You should schedule all completions to coincide with the end of the 5th quarter, reserving the last month to close all projects.
- 2) As each quarter ends, fill in the actual (Actual) accomplishments for that quarter. Your actual accomplishments will not always agree with the projections. Projected accomplishments should only be changed upon submission and approval of a revised activity schedule.
- 3) Update the Year-to-Date column at the far right.
- 4) Assuming there are no extensions to your program, you will then submit a final report at the end of the 15th month. If the grant term is extended beyond the 15-month period, simply add another sheet to your quarterly report clearly indicating the quarters (both numbers and dates) and projected accomplishments for the entire extension period.

THIS FORM MUST BE LEGIBLE OR IT WILL NOT BE ACCEPTED

Massachusetts Small Cities Program - Quarterly Report
 BREAKDOWN OF FINANCES
 Part D-1

COMMUNITY _____ QUARTERLY REPORT # _____ for FY _____ PERIOD ENDING ____/____/____

Activity Code & Description	COMMITTED \$	COMMITTED %	Drawdowns (Advances Received)	EXPENDITURES				Current Amount Escrow
				Previous Quarters (Cumulative)	This Quarter	Date \$ (Cumulative)	Year-to- Date %	
TOTALS								

INSTRUCTIONS

Code & Activity Description: Every activity and sub activity must be listed. If no financial transactions have taken place for a particular activity, simply enter "0" in the appropriate column(s).

\$ Allocation: Refer to your original budget activity code sheet. If and when a Budget Amendment or transfer has occurred, please indicate so with a numbered footnote explained in the narrative section.

% Committed: Enter the amount of the previous column covered by signed contracts.

% Committed: Divide the \$ Committed by the \$ Allocation. Enter the percentage here.

Drawdowns (Advances Received): Enter the total amount of funds received by the community's bank as per the Requests for Payments.

EXPENDITURES

Previous Quarters: Enter the total dollar amount of funds expended since the beginning of the grant term, excluding the current quarter.

This Quarter: Enter the total dollar amount of funds expended during the current quarter.

Year-to-Date \$: Add the two previous columns and enter this amount.

Year-to-Date %: Divide Year-to-Date \$ by \$ Allocation. Enter this percentage.

Amount in Escrow: Enter the total amount of funds in escrow accounts as of the end of the quarter. This should be the difference between the total amount of funds received for rehabilitation and the total amount expended for rehabilitation.

TOTAL ALL COLUMNS AT THE BOTTOM.

BREAKDOWN OF FINANCES - PROGRAM INCOME

Part D-2

Submit this form only if you have Program Income generated from this grant or a CDBG grant from past years.

COMMUNITY _____

QUARTERLY REPORT # _____ for FY _____

PERIOD ENDING ____/____/____

1) PI account balance as of January 1st of current year \$ _____ 2) PI account balance as of reporting date \$ _____

R E C E I V E D	
3) Sources of Program Income	4a) Total amount of PI received since January 1st of current year
4b) TOTAL	

E X P E N D E D	
5) Activity(ies) on which Expended (HR - Admin, HR - program)	6a) Total amount of PI expended since January 1st of current year
6b) TOTAL	

INSTRUCTIONS. The receipt and use of all CDBG program income funds must be reported, including program income generated from CDBG programs originally granted by HUD. Complete this form for all sources of program income and attached one copy to each quarterly report submitted.

- 1) Indicate the beginning balance of the PI account (or the total of all PI accounts if there is more than one account).
- 2) Indicate the balance of the PI account(s) as of the reporting date.
- 3) Source Of Program Income. List both the activity and the year from which funds originated (Ex. FY 1984 Housing Rehab). Funds may be from other than the current program year including CDBG grants awarded by HUD.
- 4a) Indicate the cumulative amount of program income funds received from the above source(s) since January 1st of the current year.
- 4b) Total items listed in 4a.
- 5) Indicate the activity(ies), including administration, on which program income has been expended since January 1st of the current year.
- 6a) Indicate the cumulative amount of funds expended on each activity since January 1st of the current year.
- 6b) Total items listed in 6a.
- 7) Divide each Activity amount listed under 6a by the total (6b) and enter the percent(s) in this column.

NOTE (1) + (4b) - (6b) = (2). If it doesn't you've done something wrong.

**Massachusetts Small Cities Program
BENEFICIARY BREAKDOWN
Part E
(Cumulative)**

Rev. 8. 87

COMMUNITY _____ Report # _____ for FY _____ Date: ____/____/____

INSTRUCTIONS

- 1) The following information must be collected for each project you undertake with Small Cities Funds whenever you have claimed L/M Benefit as your National Objective.
- 2) Update this form each time a project is completed and submit each quarter.
- 3) Always indicate the year-to-date totals.

You will note below that we request both UNIT information for housing rehabilitation projects and INDIVIDUAL information for all projects (including housing rehabilitation).

In the section below on individual characteristics you will find a column marked "D" (Direct) and "I" (Indirect) for each type of activity except housing and social services. Housing rehabilitation and social service projects always have direct beneficiaries. For other projects you will have to make a determination as to whether the project(s) you undertake are direct or indirect. A project cannot be both. The following definitions should help you in making this determination.

DIRECT BENEFICIARIES

Housing Rehab: Indicate all full time residents of the assisted unit.
Economic Development: Indicate individuals holding jobs created or retained upon completion of projects.
Public Facilities: Indicate individuals if the project directly benefits a specific living unit. (For example sewer hookups.)

INDIRECT BENEFICIARIES

Economic Development: Use verifiable data (such as census data) for the area.
Public Facilities: Use verifiable data (such as census data) for the area.

HOUSING UNIT INFORMATION

	Low/Mod Income	Over Income
# Owner Occupied Units		
# Tenant Occupied Units		
# Female Headed Household Units		
# Handicap Units		
# Out of Target Area Units		
# Elderly Occupied Units		
# Vacant Units		

INDIVIDUAL CHARACTERISTICS

		HOUSING REHAB (D)	ECONOMIC DEVELOPMENT (D) (I)	PUBLIC FACILITIES (D) (I)	SOCIAL SERVICES (D)	OTHER (D) (I)
R A C E	White					
	Black					
	Hispanic					
	Asian/Pacific Islander					
	American Indian/ Lakimp					
I N C	Up to 50% Median					
	50-100% Median					
	Median & Above					
H I S	Handicap					
	Out of Target Area					
	Elderly (65+)					

AT: 4-1000

Report # _____ for FY _____

Date / / [illegible]

INSTRUCTIONS

CTIONS
This list must be cumulative The following contracts must be reported to EOCB if CBOC funds are involved

- 1) A: contracts between the community and any other organization or firm regardless of the amount of the contract
2) A: contracts related to 1) above
3) A: private rehabilitation contracts over \$10,000 regardless of the amount of CDC funds involved
4) A: contracts over \$10,000 related to 3) above
5) A: public and private contracts involving minority or women-owned firms
Type of Trade: 1= Construction, 2= Education/Training, 3= Other
Race/Ethnic Code: 1=White, 2=Black, 3= American Indian/Alaskan, 4= Mexican

LUMP SUM DRAWDOWN ACTIVITY REPORT

REPORTING DATE: / /

QUARTERLY REPORT #

COMMUNITY

Revised

Instructions

PART 1

Name of Bank: / / Date of Deposit: / / Date of First Activity: / /

BANK COMMITMENT AMOUNT: \$ MSCP LUMP SUM DEPOSIT AMOUNT: \$ (Program Funds) (Admin. Funds)

PART 2

1) Each month enter the total amount of funds committed by the bank. (Private funds).

PART 2

2) Enter the total amount of bank funds expended for work completed during the month.

3) Enter the total amount of MSCP funds committed by the program during the month.

4) Enter the total amount of MSCP funds expended during the month for work completed.

5) If applicable, enter the amount of MSCP administrative funds expended from the LS account. This will not apply to most communities.

Month	Bank Amount Committed	Bank Amount Expended	(MSCP USE)	MSCP Amount Committed	MSCP Amount Expended	(MSCP USE)	LS Admin. Expended*
1	\$	\$		\$	\$		\$
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
TOTAL	\$	\$		\$	\$		\$

PART 3

*Administration funds should be reported only if a part of the executed lump sum agreement.

Maturities (Years)	0 - 3	4 - 5	6 - 9	10 - 12	13 - 15	16+
% of the Total Bank Amount Committed loaned for the term noted.						

PART 3

1) Total the amount of bank funds committed for the year by the term of the loan.
2) Divide this by the total amount committed and enter the % in the proper column.

LUMP SUM DRAWDOWN ACTIVITY REPORT

PART G

MASSACHUSETTS SMALL CITIES PROGRAM

FINAL STATEMENT OF COSTS
AND
COMPUTATION OF GRANT BALANCE

B.	(1) PROGRAM ACTIVITIES	(2) PAID COSTS	(3) UNPAID COSTS	(4) TOTAL COSTS	(5) EOCD APPRVD. COSTS
1.	Total Program Costs				
2.	Program Income Applied to Program costs				
3.	Grant Amount Applied to Program Costs				
4.	Estimated Amt. for Unsettled Third-Party Claims				
5.	Sub-Total				
6.	Grant Amount Per Grant Agreement(s)				
7.	Unutilized Grant to be Cancelled (line 6-line 5)				
8.	Grants Funds Received				
9.	Balance of Grant Payable (line 5-line 8)				
Note: If line 8 exceeds line 5, enter the amount of excess on Line 9 as a negative amount. This amount shall be repaid to EOCD.					
C. UNPAID COSTS AND UNSETTLED THIRD PARTY CLAIMS					
() Check if continued on additional sheet and attach.					

D. REMARKS

() Check if continued to additional sheet and attach.

E. CERTIFICATION OF RECIPIENT

It is hereby certified that all activities undertaken by the Recipient with funds provided under the grant agreement identified on Part B hereof, have to the best of my knowledge, been carried out in accordance with the grant agreement: that proper provision has been made by the Recipient for the payment of all unpaid costs and unsettled third-party claims identified on Part C hereof; that the Commonwealth of Massachusetts is under no obligation to make any further payment to the Recipient under the grant agreement in excess of the amount identified on on Line B-7 hereof; and that every statement and amount set forth in this instrument is, to the best of my knowledge; true and correct as of this date.

DATE:	NAME OF LOCAL OFFICIAL	SIGNATURE OF LOCAL OFFICIAL

F. EOCD APPROVAL

This certification of Completion is hereby approved. Therefore, I authorize cancellation of the unutilized contract commitment and related funds reservation and obligation of \$, less, \$ previously authorized for cancellation.

Comments and/or Special Conditions:

DATE:	Name of EOCD Official:	Signature of EOCD Official:

MSCP PROPERTY REGISTER

COMMUNITY:		PROG./YR:			
DATE REC'D	DESCRIPTION OF PROPERTY	LOCATION	MFG.NAME & MODEL	SERIAL #	COST

4.0 FINANCIAL MANAGEMENT

Description: MSCP grantees are required to establish a Financial Management System which adequately identifies and tracks grant activities. Minimal requirements are described below. A more complete description and a sample system are described in the MSCP Financial Management Manual.

Citation: Treasury Circular 1075
OMB Circular A-102 (Attachment G)
OMB Circular A-87
MSCP Financial Management Manual.

Procedures:

1. Grantees are required to keep accounting records that track grant activities. Separate accounting records must be kept for each program and/or program year's activities.
2. These records must provide a comparison of budget to actual expenditures for each grant activity so as to facilitate grantee reporting requirements and EOCD monitoring of each program. All transactions must be supported by source documentation.
3. Grantees should develop procedures for cash management which provides for the following:
 - Cash advances should be limited to the minimum amount needed, and should be timed to meet only actual and immediate requirements.
 - The timing and the amount of cash advances should be as close as administratively feasible to actual disbursements for program costs. Sub-grantees who request funds on an advance basis must also comply with these requirements.

Sections covered here include

- 4.1 Release of Funds: Drawdowns/Disbursements
 - a. Forms Required for Initial Release of Funds
 - i. Authorized Signature Cards
 - ii. Designation of Depository Accounts Requirements
 - Accounts Designated for MSCP Funds
 - Accounts Other Than MSCP Funds
 - b. Forms Required to Drawdown Funds
 - i. Request for Payment and Status of Funds Report (SF 183)
 - ii. Payment Vouchers (PV)
- 4.2 Flow of MSCP Funds
- 4.3 Timetable
- 4.4 MSCP Policy
- 4.5 Program Income
- 4.6 Audit Exhibits

4.1 RELEASE OF FUNDS: Drawdowns/Disbursements

Citation: MSCP Policy and U.S. Treasury Circular 1075

Once the grant has been awarded, certain fiscal forms must be submitted and procedures followed before funds can be released. This section will outline the steps to be taken to receive funds. After notification of grant award and receipt of your start-up package, the following forms must be completed and returned to EOCD for processing:

A. The following forms are required for initial release of funds, immediately after an award is made:

1. **Authorized Signature Cards (SF-1194)** (Exhibit I)

All grantees must complete four (4) MSCP Authorized Signature Cards indicating which local officials are authorized to request payment of MSCP funds.

a. **NOTICE TO PREPARER** Four individuals (representing the grantee organization) who are authorized to request MSCP funds may sign on a single card; the chief elected official of the grantee community must certify the signatures of those authorized to request funds by signing of SF 1194 in the lowest left-hand box. Four (4) cards must be returned to EOCD.

No corrections (i.e. erasures, white-outs, cross-outs) of signatures are allowed.

b. **PREPARATION OF THE FORM** The preparation instructions are numbered to correspond to numbered blocks on the sample SF-1194. A sample completed form is shown following this section.

<u>BLOCK</u>	
<u>NUMBER</u>	<u>EXPLANATION</u>

- | | |
|---|--|
| 1 | Enter "MSCP:"; enter the initials of the particular Small Cities program: either "GF" (for General Fund), or "EDSA" (for Economic Development Set-Aside); enter the sequence code number assigned by MSCP; enter the program year. (e.g., GF-XXX/FY 1990). |
| 2 | Enter the name and address of the grantee community. A subgrantee's name should not be substituted, even if administering the program. |
| 3 | Enter the typed names and signatures of the officials of the grantee community who are authorized to execute the Request For Payment. |
| 4 | Enter the date, typed name, title, and signature of the recipient community's official authorized to certify the authenticity of individuals authorized to execute the SF-183. This official must either be the Chief Elected Officer or Chief Fiscal Officer. |

NOTE: The individual signing on block 4 must not be the same individual signing in block (3). An original signature is required.

5 Leave blank - to be completed by MSCP/EOCD.

C. **DISTRIBUTION OF THE FORM** All four (4) of the MSCP Authorized Signature Cards (SF-1194) should be forwarded to:

Massachusetts Small Cities Program
Executive Office of Communities and Development
100 Cambridge Street
Boston, Massachusetts 02202
Attention: DEPUTY DIRECTOR-FINANCIAL OPERATIONS

2. **The Designation of Depository for Direct Deposit of Loan and/or Grant Funds FORM (SF-274)** (Exhibit II)

A. **NOTICE TO PREPARER** The depository account designated for deposit of MSCP funds must be a separate account. The grantee should be aware of current MSCP requirements concerning separate accounts before completing this form.

B. **PREPARATION OF THE FORM** Preparation instructions are numbered to correspond to the numbered blocks as shown on the SF-274 in the attached Exhibit.

BLOCK

NUMBER

EXPLANATION

- | | |
|---|--|
| 1 | Enter "MSCP"; enter the initials of the particular Small Cities program: "GF-" (for General Fund), or "EDSA" (for Economic Development Set-Aside); enter the sequence code number assigned by MSCP; enter the program year. (e.g. GF-XXX/FY 1990). |
| 2 | Enter the name, address and zip code of the local depository designated to receive all State funds. |
| 3 | Enter the name and number of the grantee's bank account. |
| 4 | Enter the name of the grantee (City/Town). A subgrantee's name should not be substituted, even if administering program. |
| 5 | Enter the complete address of the grantee. A subgrantee's address should not be substituted, even if administering the program. |
| 6 | Enter the signature of the Treasurer. |
| 7 | Enter the date this form was signed by the Treasurer. |
| 8 | Enter the name and number of the grantee's bank account. |
| 9 | Enter the name of the insurer of funds deposited in the designated depository (e.g., FDIC, MDIF, etc.) |

- 10 Enter the name of the grantee's bank.
 - 11 Enter the complete address of the grantee's bank where MSCP funds will be deposited.
 - 12 Enter the title of the authorized bank officer for the grantee's bank.
 - 13 Enter the signature of the authorized bank officer for the grantee's bank.
 - 14 Enter the date this form was signed by the authorized bank officer for the grantee's bank.
- C. **DISTRIBUTION OF THE FORM** All four (4) of the Designation of Depository forms (SF-274) should be forwarded to:

Massachusetts Small Cities Program
Executive Office of Communities and Development
100 Cambridge Street
Boston, Massachusetts 02202
Attention: DEPUTY DIRECTOR-FINANCIAL OPERATIONS

In addition to the grantee completing a portion of this form, certain information on these forms must also be completed by the designated bank.

Grantees should refer to the state's policy on separate accounts before preparing this form; a summary of this policy appears in Procedure D below. Grantees should also be aware that if the depository account designated on this card earns **interest**, the interest must be returned to the US Treasury.

If grantee has submitted authorized signature cards and designation of depository cards for a prior MSCP grant and has not closed out that program, the grantee need not submit new cards. Only if there is a change in either the bank or authorized signatory will new cards be required.

One Designation of Depository and Authorized Signature Card will be returned to the grantee for their records once MSCP approval has been obtained. Once these forms have been submitted, and processed by EOCD, grantees may begin drawing funds (assuming all other requirements have been met, e.g., environmental review, special conditions).

- D. **REQUIREMENTS CONCERNING SEPARATE ACCOUNTS** Requirements established by EOCD concerning the establishment of separate accounts for MSCP funds are as follows:

1. **Account Designated for Direct Deposit of MSCP Funds**

The account to be designated on the MSCP Form SF-274 (Designation of Depository) for deposit of MSCP funds, must be an account separate from any other City/Town account. If interest is earned on this account, U. S. Treasury regulations require that this interest be returned to them. Exhibit III shows a sample letter which may be used when corresponding with HUD relative to interest earned on the designated depository account. This account may have been previously established for deposit of HUD and for state- administered Small Cities funds; however, the account may not be used for deposit of funds from other sources (e.g., City/Town funds or other grant funds). When HUD and State Small Cities funds are maintained in the "designated account," separate accounting records are required.

The interpretation of Treasury Circular 1075 will not vary whether the "designated account" is separate or co-mingled as noted above. For either type of account, a cash balance in excess of \$5,000.00 held beyond the (administratively feasible) time needed to meet immediate cash needs, shall be considered to be a violation of the requirements of Treasury Circular 1075. Generally, we will interpret "administratively feasible" to be within the next disbursement cycle of the grantee's fiscal system.

2. **Accounts Other Than The "Designated Account"**

Any account established for deposit of MSCP funds, other than the "designated account," (e.g., revolving loan, rehabilitation escrow, program income, etc.) must be a separate account. Any bank accounts utilized to combine funds for more than one year of rehabilitation escrow projects, or program income funds from various years, must have separate accounting records established by program year.

B. **Forms Required to Drawdown Funds**

To drawdown MSCP funds, grantees will be required to submit a Request for Payment Form (SF-183 - Exhibit IV) and a Payment Voucher Form (PV Form - Exhibit V). The Request For Payment Form will allow simultaneous requests for funds from more than one Massachusetts Small Cities Program to be processed, (e.g., General Fund, Economic Development Set-Aside, etc). A minimum of \$5,000 must be requested with each drawdown regardless of the number of grants listed on the form. Instructions for completing these forms are found below.

1. **REQUEST FOR PAYMENT**

The following are Instructions for Preparation and Distribution of the Massachusetts Small Cities Request for Payment and Status of Funds Report (SF-183) and State Payment Voucher (PV Form). Standard Invoice.

It is extremely important that care be exercised in preparing the SF-183 and PV Form correctly and completely in order for the MSCP to process the Request for Payment without delay. Drawdowns of MSCP funds shall be made only in amounts necessary to meet current disbursement needs. Such drawdowns shall not ordinarily be in amounts less than \$5,000. The frequency with which drawdown requests may be made is governed by requirements specified in Section I of this Chapter.

These requirements must be followed.

All dollar amounts which are entered on both forms must be shown to two places and rounded to the nearest \$100 past the decimal. Example: \$25,000.00

Each Request for Payment (SF-183) must be accompanied by a State Payment Voucher (PV Form) in order to be processed by the State Comptroller's Office.

Program funds from different MSCP programs and different program years may be requested using a single Request for Payment only if:

- a. The Depository Account designated for receipt of each program's funds are the same, and
- b. The signatories authorized to execute an SF-183 for each EOCD program are the same.

Preparing the SF-183, MSCP Request for Payment Form and the PV Form, State Payment Voucher

The SF-183 is a four-part form. Forward to EOCD the original and the first two (2) copies of the completed SF-183. The recipient organization should retain the last copy (orange form) of the complete SF-183 for its own records.

INSTRUCTIONS FOR COMPLETING THE REQUEST FOR PAYMENT AND STATUS OF FUNDS REPORT (SF-183)

SECTION ONE: Grant Recipient

1. Community The name of the grantee community. In case of joint communities, the name of the lead community.
2. Address The address of the person responsible for completing the form.
3. Contact The name of the person responsible for completing this form.
4. Telephone No. Contact person's telephone number.

SECTION TWO: Status of Funds

- | | |
|-------------------------------|--|
| Program Name and Program Year | Enter the program name (General Fund, Main Street, Economic Development Set Aside, etc. which may be in abbreviated form, i.e., GF, MS, EDSA) and the fiscal year in which the program is funded. This information will be placed in each of the three spaces that head each column. |
| 1. Advances Received to Date | Enter the total amount of all MSCP funds received to date for the program cited in a particular column. |

2. **Add: Program Income** Enter the amount of program income being used for cash management.
3. **Miscellaneous Receipts** Enter any miscellaneous receipts which have been deposited in the MSCP designated depository and are attributable to the program from which funds are being requested. This may include cumulative MSCP funds advanced to a secondary recipient organization and, subsequently, determined to be in excess of immediate disbursement needs, which have been returned to the primary recipient.
4. **Subtotal** Enter the sum of the amounts reported on lines 1,2, and 3.
5. **Less : Actual Disbursements to Date** Enter the total amount of actual MSCP disbursements to date relative to the program cited from all sources. This information should be taken from your summary cash control register.
6. **MSCP Funds on Hand at Time of this Request** Enter the difference of the amount reported on line 4 minus the amount on line 5.

 Note: The total in the designated depository of all program year balances combined and all program income accounts should not exceed \$5,000 (excluding revolving loan and escrow accounts). Therefore, all programs in all program years should be identified in this section, whether or not funds for a particular program is being requested. Only lines 1 through 6, 10 and 11, must be completed if a request for funds is not being made for a particular program.
7. **Add: Unpaid Requests for Payment Previously Submitted** Enter the total amount of the request(s) for payment submitted but for which the grantee organization has not received payment.
8. **Add : Amount of this Request for Payment:** Enter the amount of the request for payment of funds from the program cited.
9. **Total (by Program)** Enter the sum of the amounts reported on lines 6, 7, and 8.
10. **Outstanding Advances to Sub-grantees** Enter the total amount of MSCP funds advanced to sub-grantees under the program cited but not yet disbursed (i.e., the total of all sub-grantees' MSCP funds on hand at the time of this request).

- | | | |
|-----|--|--|
| 11. | Explanation of Program Income and/or Miscellaneous Receipts (Line 2) and Other Remarks | <p>The recipient organization must enter an explanation for the first time an amount is cited on line 2 and for all subsequent changes in this amount. Any additional remarks related to Section Two may be entered as deemed appropriate.</p> <p>NOTE: Program income to be reported on line 2 and 10 above will include funds deposited in all the program income accounts.</p> |
| 12. | TOTAL (All Programs) | Total for all programs by line items 1 through 10. |

SECTION THREE: Classification of the Amount of this Request and Expenditure Report:

In the columns of this section, the grantee must provide an itemization of funds requested under the corresponding program cited above in Section Two. List all program components.

- | | | |
|----|-------------------------------------|--|
| 1. | Program Name, ID # and Program Year | This will be the same information entered under the corresponding heading in Section Two. |
| 2. | Code | List the codes for each of the line items of a sub-account from which MSCP funds are requested. The requested amount must be itemized at the sub-account level (e.g., 4.A Housing Rehabilitation Administration). The budget summary sheet in the final application, should be consulted for information on the appropriate codes. |
| 3. | Budgeted Amount | Amount budgeted to the corresponding sub-accounts. Total should equal total grant award and reflect any amendment. |
| 4. | Grant Funds Drawn To Date | Total funds drawn from a program by sub-account. The total should equal Section 2, line 1. |
| 5. | Program Income Expended To Date | Total program income spent on a program by sub-account. Total should equal Section 2, line 2. |
| 6. | Grant Funds Expended to Date | Enter the amount expended to date of MSCP grant funds for each sub-account. "Expended" is vendor(s) paid for work completed. |
| 7. | Current Request | Amount of funds requested for a program by sub-account. |
| 8. | Total | Enter the total amount requested for all sub-accounts of the program cited in a particular column. Total should equal Section 2, line 8. |

SECTION FOUR: Certification

1. **Date:** Enter the date this form is certified.
2. **Signature:** One of the designated officials of the grantee City/Town authorized to certify Requests for Payment on the SF-1194, Authorized Signature Card, must sign in this block. This signature must be identical to that on the SF-1194. Please note that this signatory must be authorized to certify requests for payment by a current SF-1194 for each of the above cited programs. If signatories vary in a given program, a separate SF-183 must be completed, and the signature obtained of one of the designated officials authorized to certify requests for payment for that program.
3. **Title:** Enter the title of the designated official certifying this SF-183.

INSTRUCTIONS FOR PREPARATION AND DISTRIBUTION OF THE COMMONWEALTH OF MASSACHUSETTS' PAYMENT VOUCHER FORM (PV FORM)

- A. NOTICE TO DRAWER** Each drawdown request submitted by the recipient organization must be accompanied by a properly completed State Payment Voucher Form (PV Form - See Exhibit IV). Under the state disbursal system, payment of funds cannot be made without this form.

The total amount requested in the Payment Voucher Form must agree with the total amount requested on the MSCP SF-183 which it accompanies.

- B. PREPARATION OF THE FORM** Instructions for completing each required block are below. Only the items listed should be completed by the recipient.

DEPT: Enter "OCD" in capital letters

R/ORG: Enter "3400"

PV DATE: Date PV is signed at the local level.

BUD FY: Enter last 2 (two) numbers of the current state fiscal year.

ACTION: Enter "E"

VENDOR'S This should be the signature (not a stamp) of an authorized
CERTIFICATION: signatory as specified on the SF-1194 (Authorized Signature Card).

DEPARTMENT/ Enter "EOCD- Small Cities Program"
ORGANIZATION:

DOCUMENT TOTAL: Insert the Total amount requested. The numbers must be inserted beginning in the left hand space.

Requests must be made to the nearest \$100.00.

DEPT: Enter "OCD"

VENDOR Enter the number of the voucher.

INVOICE NUMBER: Vouchers should be numbered sequentially beginning with "01"

VENDOR CODE: Insert the thirteen (13) digit number assigned by the State Comptroller's office for the City/Town.

***** IMPORTANT *****

Please make sure that this number is accurate. It must be correct in order for payment to be made and forwarded to the proper bank for deposit. Incorrect Vendor Code numbers will delay payment

VENDOR NAME Enter the City/Town Name

and ADDRESS: Name of Receiving Bank

Account #

Address of Bank

NOTE: This information must coincide with the information provided on the SF-274, Designation of Depository Card.

DESCRIPTION: Enter "Funds for Massachusetts Small Cities Program"

AMOUNT: Enter the Total amount requested. This must match the amount in block entitled DOCUMENT TOTAL.

LN: Enter "01"

TRANS: Enter "SC"

DEPT: Enter "OCD"

R/ORG: Enter "3400"

NUMBER: Leave blank

LINE: Leave blank

DEPT: Enter "OCD"

APPROP: Enter "37243037"

SUB: Enter "00"

ORG: Enter "3400"

OBJ: Enter "PO1"

VENDOR INVOICE NUMBER: See above

DESCRIPTION: Enter "Mass Small Cities Program"

DATES OF SERVICE: Period covered by this voucher. This date cannot be later than the submission date to EOCD.

AMOUNT: Leave blank

You have now completed the form. DO NOT sign below the certification statement to the Comptroller. This block is for EOCD use only.

This is a four (4) part form. All copies must be submitted to EOCD for processing. One copy will be returned to you.

4.2 Timetable for Receipt of Funds by Grantees

Requests for Payment received by EOCD by noon on Thursday (of any week) will be assigned a Batch Date of the following Monday and will be received by the grantee 3 weeks from the Monday Batch Date barring any approval problems. Upon processing by EOCD, the copy of the Payment Voucher Form (PV Form) will be returned to the grantee with the Batch Date noted. This will enable the grantee to be aware of the timetable for receipt of their funds and make plans for their prompt disbursement.

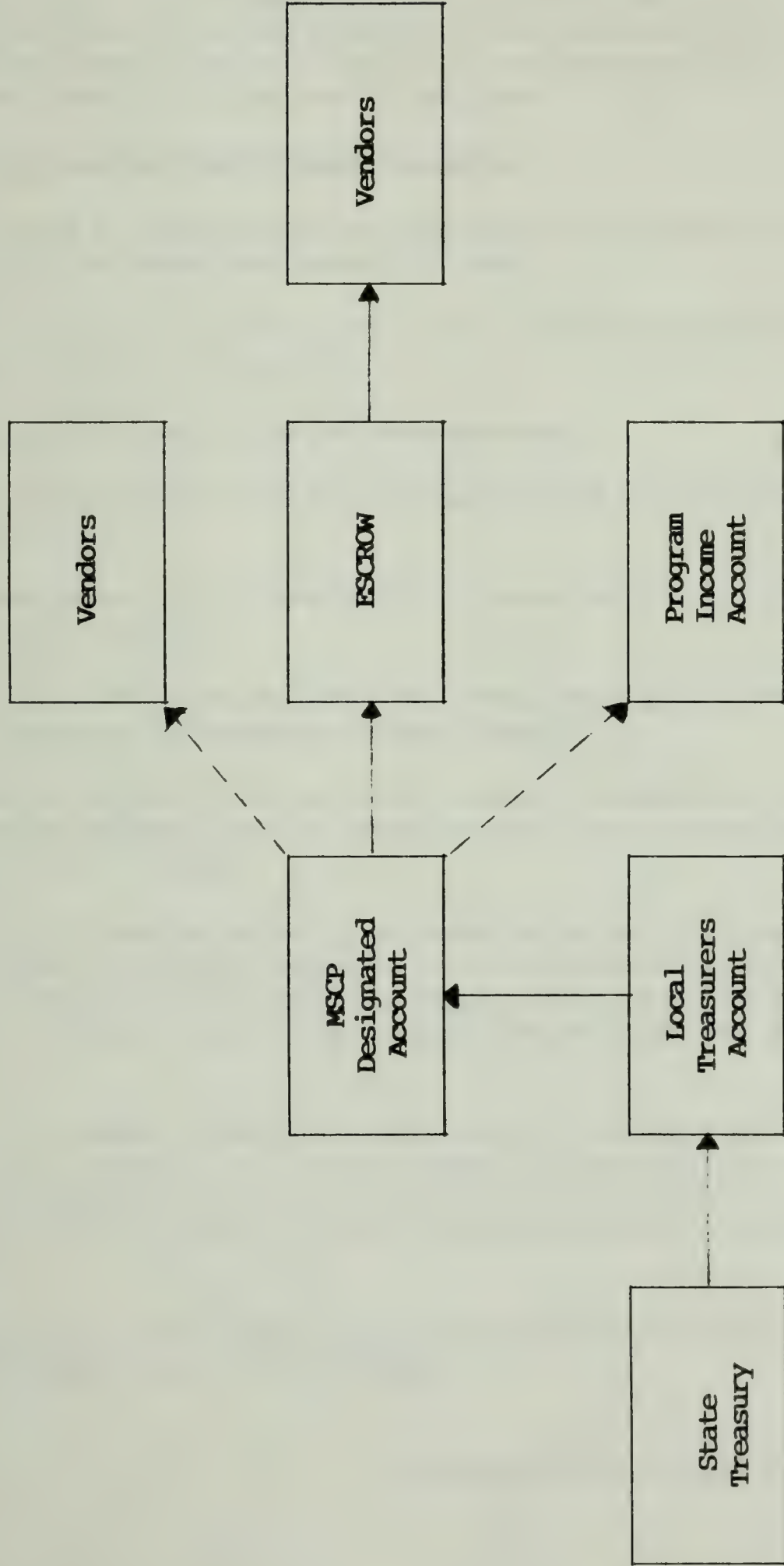
If funds have not been received by the expected date, the recipient should contact its bank to determine that the funds have not been misplaced. Only after the bank has performed a thorough search, and has determined that the funds have not been received, should the recipient contact EOCD.

4.3 Flow of MSCP Funds

Under the implementation of the Massachusetts Management Accounting and Reporting System (MMARS) all state checks are mailed directly to City/Town Treasurers, or to a receiving account for all funds, designated by the City/Town Treasurer. The City/Town Treasurer has the responsibility of insuring that MSCP funds are transferred into the designated account in a timely manner. Once funds have been deposited into the designated account, disbursement may occur in the following ways:

- A. Directly from the designated account for payment of incurred expenses.
- B. Into a program income or escrow account. Information pertaining to these types of accounts can be found in the MSCP Financial Compliance and Management Manual.

MSCP CASH FLOW



C. To a separate grantee account or to a subgrantee, when:

1. funds are disbursed to a grantee or subgrantee account on a reimbursement basis it is treated the same as a payment for incurred expenses
2. funds flow to a grantee account or to a subgrantee account on a non-reimbursement (advanced) basis, the account is subject to the same regulations as the MSCP Designated Account. This will occur when funds flow to a recipient account prior to payments made or when funds are being advanced to a subgrantee.

4.4 MSCP Policy Concerning Federal Treasury Regulations

The following is intended to provide information on the MSCP's interpretation of Federal Treasury Regulations which govern the drawdown procedures of grantees.

As indicated in the Grant Agreement, grantees and their sub-grantees must comply with several specific, requirements contained in Treasury Circular 1075.

- A. Cash advances must be limited to the minimum amount needed.
- B. Cash advances shall be timed to meet only actual and immediate cash requirements as defined in Circular 1075.
- C. The timing and amount of cash advances shall be as close as is administratively feasible to actual disbursement or program costs.
- D. To the maximum extent feasible, the grantee shall disburse any program income it received prior to making or permitting additional draws from the Treasury.

EOCD intends to enforce compliance with these specific provisions. We require that drawdowns for the schedule of bills payable should be timed to coincide with the warrant for such bills, so that the immediate disbursal of funds is ensured.

Funds in excess of \$5,000 should not be held by the grantee longer than a time necessary to meet its immediate disbursal needs. The financial management systems of the grantee must provide for effective control over the accountability for all Federal funds as stated in OMB Circular A-102 for State and local governments and OMB Circular A-110 for institutions of higher education, hospitals, and other nonprofit organizations.

A clause in the Grant Agreement commits the grantee to adhering to these regulations and also to the timely reporting on the use of these funds to EOCD. Failure to adhere to these provisions may cause the unobligated portion of the grant award to be revoked by EOCD or may cause the termination of all advance financing, requiring the recipient to finance its operations, thereafter receiving payments on a reimbursement basis.

Whenever applicable, grantees shall develop procedures whereby sub-grantees can obtain funds from the grantee as needed for disbursement to meet its obligations.

Please note that a sub-grantee is subject to the same Federal Treasury Regulations as is the grantee, and that it is the responsibility of the grantee to ensure the compliance of all sub-grantees with this statute.

Regardless of the particular method used to advance funds, the grantee shall be responsible for (a) making such reviews of the financial practices of sub-grantees, both primary and secondary, as are necessary to ensure that the regulations are being complied with and (b) instituting such remedial measures as may be necessary in the event that a sub-grantee has demonstrated its unwillingness or inability to comply with these provisions.

4.5 PROGRAM INCOME

Citation: OMB Circular A-102, Attachment E.

Program income are those funds generated from a CDBG funded activity. The use of these funds is governed by CDBG regulations and may only be used for eligible activities. The activities which generate Program Income may include, but are not limited to, the following:

- A. proceeds from the sale of real and personal property;
- B. principle and interest payments made on a CDBG funded loan;
- C. Interest earned from a rehabilitation lump-sum fund, a revolving loan account, or a rehabilitation escrow account for funds deposited for contracts signed prior to 9/7/90. After this date interest earned from an escrow account is not considered program income and must be returned to HUD. See sample letter on page 6.

Procedures for the Use of Program Income:

1. Recipients may only use program income for CDBG eligible activities. The MSCP recipient is required to submit a program income plan together with the application or as part of the Special Condition of the Grant Agreement. Amendments to a program income plan must also be submitted for EOCD approval.
2. All CDBG/MSCP regulations apply to the use of program income.
3. MSCP grantees are required to maintain a separate designated depository account. If interest is earned on a grantee's designated depository account the interest is not considered program income and must be returned to the U.S. Treasury.
4. The grantee must use program income prior to the drawdown of additional funds from EOCD. An exception to this rule may occur when a grantee maintains a revolving loan account. The program income (interest and loan repayments) from this account may be held only if the grantee is submitting a drawdown for funds for an unrelated activity.
5. The grantee may retain program income for use on MSCP approved activities. The Executive Office of Communities and Development retains the right to recapture program income when:
 - a. the grantee has not complied with the approved program income plan;
 - b. the grantee has used program income for ineligible activities; and
 - c. program income is earned from a MSCP/EDSA project.

(Although the EDSA program does not allow grantees to retain program income generated from an EDSA funded project, certain exceptions have been established. EDSA program income plans will be evaluated on an individual basis).

6. Regulations governing program income apply as long as a grantee has an ongoing MSCP or CDBG program. However, program income earned after all MSCP and CDBG grants have been closed out is considered miscellaneous income to be used at the grantee community's discretion. The program income earned after the close out of all MSCP and CDBG grants is not subject to any of the above requirements even if a grantee receives a new CDBG or MSCP grant at a later date.
7. At the end of a grantee's program, the funds remaining in the grantee's letter-of-credit may be drawn in a lump-sum to reimburse program income advanced in order to comply with the U.S. Treasury drawdown regulations. Upon reimbursing their program income account at close-out the grantee must then expend these funds before accessing funds from any succeeding MSCP grant.
8. Use of Program Income for Administration:
 - a. Up to 18% of the program income received may be allocated to general administrative costs to maintain the activity approved under the grantee's program income plan.
 - b. Program income should be applied towards administrative costs with the following points in mind:
 - i. The split between general administration and program administration should be in the same percentages as the year's grant, to which the program income is applied.
 - ii. The percent of program income allocated to administrative costs should not exceed the grantee's existing administrative allocation.
 - iii. In no instance can more than 23% of a grantee's program income be used for general and program administrative purposes.

Procedures for the Reporting of Program Income:

1. Grantees must report program income on the MSCP Request for Payment and Status of Report (SF-183).
2. Grantees must report the receipt and expenditure of all program income on the MSCP Supplemental Program Income Statement, attached to the Quarterly Report.
3. Grantees must report the receipt and expenditure of all program income on the MSCP Final Statement of Cost included in the close-out package (See Final Quarterly Report).

4. Grantees must maintain accounting records which adequately identify the source of funds, the date of receipt, the program year and activity to which funds were applied, the amounts expended and the balance remaining.

Common Problems:

- Grantee does not use program income prior to additional drawdowns from MSCP.
- Grantee exceeds the administrative caps placed on program income.

4.6 AUDIT PROCEDURES

Citation: The Single Audit Act of 1984 (P.L. 98-502), Uniform Requirements for Audits of Federal Financial Assistance Provided to State and Local Governments. These regulations became effective for fiscal years beginning after December 31, 1984.

The grantee is required to conduct an annual audit of combined federal financial assistance programs, including Massachusetts Small Cities Program funds. The dollar amounts indicated below refer to the total federal assistance received by the community from all sources. The audit must be completed by an independent public accounting firm.

1. Dollar Threshold:

According to the Single Audit Act, specific federal grant amount ranges have been established to determine the type of audit that must be performed by the grantee. The categories which determine the type of audit required are described below.

- | | | |
|----|--------------------------------|--|
| a. | \$100,000 or more: | Must have an entity wide audit conforming to the Act. |
| b. | Between \$25,000 and \$100,000 | Must either: (a) have an entity wide audit or (b) an audit done in accordance with the federal laws and regulations governing that particular program. |
| c. | Under \$25,000 | Exempt for that fiscal year. |

According to the requirements of the Single Audit Act, a community is allowed to designate an "entity" which will then be audited on a yearly basis in conformance with the Act. An entity can be designated in either of the two ways identified below:

- The audit may cover the local governments's operations, or
- The audit may cover each department, agency or organization which received, expended or otherwise administered federal financial assistance.

2. Audit Standards:

Audits conducted under the Single Audit Act shall be in conformance with Standards for Audit of Governmental Organizations, Programs, Activities, and Functions.

3. Required Compliance Reports:

When an audit is completed by the selected accounting firm, it will need to state that several determinations can be made as a result of that audit. These determinations represent the key issues with which each audit must deal. They include:

- Financial statements present fairly the results of financial operations as per generally accepted accounting principles.
- The entity has complied with laws and regulations that may have a material effect upon the financial statements.
- The entity has internal control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations.
- The entity has complied with laws and regulations that may have a material effect upon "each major" federal assistance program.

4. Procedures for Sub-grantees:

In addition to performing an audit of its own federal funds on an annual basis, certain requirements must also be adhered to by the grantee when dealing with its sub-grantees. These requirements state that the state and local governments which receive federal financial assistance and provide \$25,000 or more to a sub-grantee shall: Require as a part of the contract between the community and the sub-grantee, that the sub-grantee undergo an audit in accordance with OMB Circular A-128.

- A non-profit agency in this role has an audit performed in accordance with OMB Circular A-133. Paragraph 6a of this circular states " a sub-grantee is defined to be any person or government department, agency, or establishment that receives federal financial assistance to carry out a program through a state or local government." This circular further states that "an audit made in accordance with this Circular shall be in lieu of any financial audit required under individual Federal awards." To the extent that an audit made in accordance with this Circular provides Federal agencies with the information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits or reviews necessary to carry out responsibilities under Federal law and regulation. Any additional Federal audits or reviews shall be planned and carried out in such a way as to build upon work performed by the independent auditor.
- Review sub-grantee audits conducted in accordance with the Act or,

- Determine whether the expenditures of federal financial assistance provided to the sub-grantee, by State or Local government are in accordance with applicable laws and regulations.
- Require as a condition of receiving assistance, that the sub-grantee must allow access to the records by the independent auditor for the purposes of this Act.

5. Cost of Audit Services

The grantee may proportionately charge the cost of the auditing services between each grant program covered during that year. Grantee's should estimate the percentage share that may charged to each individual grant programs when preparing their budgets for that particular year.

a. The Audit Requirement/Single Audit Act

As stated in Section 2.06 of the Grant Agreement, grantees are required to secure an independent audit of their Small Cities Programs. On July 1, 1985, the Single Audit Act of 1984 (P.L. 98.502) went into effect for the Commonwealth and local governments. The Single Audit Act requires that State and Local governments receiving more than \$100,000 in total federal financial assistance must have an annual entity-wide audit. It further requires State and local governments which receive federal financial assistance and provide \$25,000 or more to a sub-grantee shall review sub-grantee audits to determine whether expenditures are in accordance with applicable laws and regulations, as well as ensuring that corrective action is taken in instances of material non-compliance with laws and regulations governing the federal financial assistance.

Grantees who receive \$25,000 to \$100,000 in federal financial assistance must have either an entity-wide audit or (comply with the grant audit requirements set forth in the HUD Guide). Finally grantees receiving under \$25,000 in federal financial assistance are exempt from the Single Audit Act for that fiscal year.

If the grantees scheduling of the audit results in advanced, unaudited Small Cities Program funds for a given year, MSCP may require the following: documentation of unaudited expenditures; or, the deferral of official close out until unaudited funds are audited as part of the next scheduled audit. EOCD will base it's determination of the appropriate requirement upon such consideration as the amount of advanced, unaudited funds, the amount of time until the next scheduled audit and other various factors. Grantees with unaudited MSCP funds at the time of termination may be conditionally closed out by EOCD, pending receipt, review, and final resolution of findings resulting from the final audit.

b. The Audit Procedures

An audit of a community's MSCP grant must be conducted in accordance with the General Accounting Office Standards for Audit of Governmental Organization Programs and Activities and Functions, and Guidelines for Financial and Compliance Audits of Federally Assisted Programs, generally accepted auditing standards established by the American Institute of Certified Public Accountants (AICPA).

In order for an audit to be in conformance with these requirements it must include an assessment of the grantee's compliance with program regulations such as environmental review procedures and Grant Agreement provisions. The grantee should make available for reference all major documents, regulations, policy memoranda, and handbooks associated with the MSCP. The grantee should familiarize itself with the scope and procedures for the audit in order to answer any questions. Note that the MSCP staff is always available as a reference source.

c. Requirements Concerning the Procurement of an Auditor

If the audit is paid for with federal funds, the audit firm must be procured in accordance with the requirements of OMB Circular A-102, Attachment O, and state procurement regulations.

d. The Provision of Staff Availability

The auditor should conduct an entrance conference with program staff to explain what documentation and records the grantee must make available in order for an audit to be performed.

The auditor must conduct an exit conference prior to preparation of the audit report, in order to discuss any possible findings. If findings have resulted simply from the auditor's inability to locate, recognize or understand existing documentation, the grantee may be able to clarify or provide such information as may be needed to resolve possible deficiencies at the exit conference. Thus, the grantee can help ensure the validity of audit findings.

e. Distribution of the Audit Report

See OMB Circular A-128 and MSCP Financial Management Manual

f. Procedures for Resolving Findings

Generally, findings noted during an audit are responded to by the community before the final audit report is issued and those comments are then included in the final report. If the grantee's response to findings were not included in the audit report it must send such response under separate cover to EOCD upon receipt of the audit report. The response must describe each finding and explain how the grantee proposes to or has resolved each identified deficiency. The response should be concise and to the point, emphasizing actions taken or proposed to remedy identified deficiencies and providing the estimated time for correcting these deficiencies. Grantees should not assume that findings are cleared until they receive written confirmation of such from EOCD.

4.7 RETENTION OF RECORDS

The grantee shall maintain in accordance with OMB Circular A-102, Attachment C, and any Commonwealth regulations, procedures or guidelines, those books, records and documents (including but not limited to, payroll records, accounting records, and purchase orders) that are sufficient to document that activities carried out were in accordance with the Grant Agreement, and the primary objectives of MSCP, and any other applicable laws and regulations. Such records shall contain all information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

The grantee shall maintain such records for a period of not less than three (3) years from the date of approval of the grantee's Certification of Completion or for a period of six (6) years (whichever is longer). All retention periods start on the first day after final payment under this contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later.

If such records become the subject of audit findings they shall be retained until such findings have been resolved, whichever is later. Records for non-expendable property acquired with MSCP funds must be retained for three years after its final disposition. Records should be retained in such a way as to provide for their security from theft, loss or damage.

4.8 MSCP PROPERTY REGISTER

Register Instructions:

List all property purchased in whole or in part with the MSCP funds with a value of more than \$300.00 and a useful life of more than one (1) year.

4.9 MSCP DISPOSITION POLICY FOR NON-EXPENDABLE PERSONAL PROPERTY

As stated in the MSCP Property Register submitted to EOCD on the items listed below have been identified as non-expendable personal property purchased with MSCP funds. The policy code number in Exhibit V identifies the policy statement which applies to our investment in the property.

- A. Original unit acquisition cost was below \$1,000. Grantee may retain the property for other uses without reimbursement to the State.
- B. Original unit acquisition cost was above \$1,000. The grantee retains the property for other uses provided the grantor agency is reimbursed for the percentage share of the fair market value.
- C. Original unit acquisition cost was above \$1,000. The state reclaims the property to reuse/loan to another grantee after having first reimbursed the grantee for its share.
- D. Grantee is to sell the property and split the proceeds according to the appropriate percentage. Grantee may claim a 10% handling fee against the State's share.

NOTE: For expendable personal property: If the aggregate exceeds \$1,000 and it is not needed for any State/grant funded activity it may be acquired by the grantee or sold at fair market value. The proceeds will be treated as program income.

standard form 1194	AUTHORIZED SIGNATURE CARD MASSACHUSETTS SMALL CITIES PROGRAM		FOR STATE USE ONLY		
			DATE OF APPROVAL:		
Name and Address of Recipient	ISSUED BY: Massachusetts Small Cities Program Executive Office of Communities and Development 100 Cambridge Street Room 1803 Boston, MA 02202				
SIGNATURES OF INDIVIDUALS AUTHORIZED TO REQUEST PAYMENT OF MSCP FUNDS		only one signature required on payment vouchers			
Typed Name and Signature (Recipient)	Typed Name and Signature (Recipient)				
Typed Name and Signature (Recipient)	Typed Name and Signature (Recipient)				
I Certify that the signatures above are of the individuals authorized to draw payment vouchers for MSCP funds		APPROVED: (For State Use Only)			
Date and signature of authorizing official (recipient)		Date and signature of agency certifying officer			

standard form 274

MASSACHUSETTS SMALL CITIES PROGRAM
DESIGNATION OF DEPOSITORY FOR DIRECT DEPOSIT OF LOAN AND/OR GRANT FUNDS

SECTION 1 (To be completed by recipient organization)

Name of program and program year _____

The _____

(Name, Address and ZIP Code of Bank or Local Government Treasury)

has been designated as the depository for all MSCP funds to be received from the Office of the Treasurer of the Commonwealth of Massachusetts and resulting from the grant agreement executed with the Executive Office of Communities and Development for Deposit to: _____

(Account Name and Number)

 (Name of Recipient Organization)

 (Address and Zip Code of Recipient Organization)

 City/Town Treasurer

 (Date)

SECTION 11 (To be completed by the depository)

The account identified in Section 1 has been established with this bank, (or treasury as applicable). All necessary documentation, including a power of attorney where necessary, which will legally enable this depository to receive checks from the Office of the Treasurer of the Commonwealth of Massachusetts for deposit to:

 (Account Name and Number)

without the payee's endorsement have been received and are in this depository's custody. This depository's deposits are insured by: _____

 (Name of Bank or Treasury)

 (Address and ZIP Code where checks should be mailed)

The Depository hereby agrees to immediately notify the Recipient Organization when a deposit is made in the above account.

 (Title of Authorized Bank Officer)

 (Signature of Authorized Bank Officer)

 (Date)

SAMPLE LETTER TO HUD

RE: RETURN OF EARNED INTEREST

Date

Ms. Karen Malfy
Department of Housing and Urban Development, CPD
Boston Regional Office, 3rd Floor
10 Causeway Street
Boston, MA 02222-1092

Dear Ms. Malfy:

Enclosed is a check made payable to the Department of Housing and Urban Development in the amount of \$ _____ which represents interest earned on a Community Development Block Grant depository/escrow account for the period of _____.

The source of these funds is letter of credit (#86-00-1443) which is passed through the Commonwealth of Massachusetts Small Cities Program. If there are any questions please call _____ at (____) _____ - _____.

Sincerely,

Name
Title

cc: MSCP

Exhibit V

[illegible]

ITEMS		AMOUNTS BY PROGRAM AND YEAR		
PROGRAM NAME, YEAR, ID#				TOTAL
1. ADVANCES RECEIVED TO DATE				
2. ADD: PROGRAM INCOME TO DATE				
3. ADD: MSC RECEIPTS TO DATE				
4. SUB-TOTAL				
5. LESS: ACTUAL DISBURSEMENTS TO DATE				
6. MSCF FUNDS ON HAND AT TIME OF REQUEST				
7. ADD: UNPAID REQUESTS PREVIOUSLY SUBMITTED				
8. ADD: AMOUNT OF THIS REQUEST FOR PAYMENT				
9. TOTAL				
10. OUTSTANDING ADVANCES TO SUBGRANTEES				
11. COMMENTS				

CLASSIFICATION OF THE AMOUNT OF THE REQUEST AND EXPENDITURE REPORT					
PROGRAM NAME:		PROGRAM D.G.		PROGRAM YEAR:	
CODE	BUDGETED AMOUNT	GRANT FUNDS DRAWN TO DATE	PROGRAM INCOME EXPENDED TO DATE	GRANT FUNDS EXPENDED TO DATE	CURRENT REQUEST
				TOTAL:	

[illegible][illegible]

CONTENTS

I certify that this request for payment has been drawn in accordance with the terms and conditions of the relevant grant agreements with DCD and that the amount for which drawn is proper for payment to the drawer or for credit to the account of the drawer at the drawer's bank. I also certify that the data reported above is correct and the amount of the request for payment is not in excess of current needs.

DATE	SIGNATURE	TITLE
------	-----------	-------

STATE USE ONLY

DATE RECEIVED:

DATE APPROVED/REVIEWER:

COMMENTS:

MSCP DISPOSITION FOR NON-EXPENDABLE PERSONAL PROPERTY

Exhibit VI

[illegible]

5.0 PROCUREMENT

Description: The procedures described below must be adhered to so that, regardless of dollar value, any procurement of goods or services will be conducted in a manner that provides for maximum free and open competition.

Citation: Office of Management and Budget (OMB) Circular A-102, Attachment O;
Massachusetts General Laws, Chapter 30B;
MSCP Construction Manual

Discussed below are methods of procurement, procedures used to document the applicable method used; types of contracts and the content of these contracts.

Grantees should note that the effectiveness of a competitive procurement process depends on the strength of the solicitation. A grantee should consider and utilize the variety of approaches available to maximize the response to a Request For Proposals, including positive efforts to attract minority-owned, labor surplus area, and small business. In most cases, a procurement process that results in few responses does not reflect an aggressive solicitation.

5.1 Methods of Procurement

OMB Circular A-102, Attachment O, cites four methods of procurement and the criteria for their use. These methods are, small purchase procedures; competitive sealed bids; competitive negotiations, and non-competitive negotiations. Each are described briefly below.

- A. Small Purchase: OMB Circular A-102 and state law (Chapter 30B) define small purchases to be those for goods and services that cost less than \$10,000. For goods and services that cost under \$1,000, there are no formal procurement methods to follow. However, it is strongly recommended that at least two price quotes be obtained and that sound business practices are followed. For small purchases that cost between \$1,000 and \$10,000, procurement should be based on at least three price quotes that may be obtained by telephone or in writing. The contract must be awarded to the vendor or responsible person based on the lowest price. Documentation of this process must be maintained.
- B. Competitive Sealed Bid: For all material, supply and construction contracts in excess of \$10,000, a competitive sealed bid process should be followed. In brief, the process is as follows:
 - 1. A formal advertisement must be placed in a general circulation newspaper. The advertising must take place at least two weeks prior to the bid opening for purchases over \$10,000.
 - 2. The advertisement should detail the material terms and conditions of the goods or services required.
 - 3. The specifications must be clear, complete and realistic. If bid documents are prepared by the recipient, the exact location of where copies can be obtained must be noted.
 - 4. The date, time and place of the public bid opening must be noted.

5. The successful bidder (usually the lowest bidder) must be given written notice of the award. All other bidders must also be notified, in writing.

C. Competitive Negotiation/ Request for Proposals: This process is often used for obtaining professional services such as architects, engineers, consultants or accountants. MSCP policy requires that this process be used for all professional service contracts over \$5,000. In brief, the process is as follows:

1. A Request for Proposal (RFP) should be publicly advertised in a general circulation newspaper or sent to a number of firms who are specialists in the field. (A minimum of 3 is recommended.)
2. The RFP should be clear and accurate with regard to the services to be performed. It should also identify all significant evaluation factors so as to solicit an adequate number of proposals.
3. A deadline for submission of proposals should be noted. Adequate time for development and submittal of proposals must be allowed between advertisement and the deadline.
4. The recipient should establish written evaluation criteria before accepting proposals. The evaluation process should be well documented and reasons for rejecting or accepting proposals formally noted in the file.
5. Written notification to both successful and unsuccessful bidders should be documented.

D. Non-Competitive Negotiation: The procurement of goods or services through solicitation from only one source or from several sources when competition has been determined to be inadequate. This method can only be used when the methods above are not feasible and only under the following circumstances:

1. The goods or services are available from only one source; or
2. An emergency exists with no time to permit other types of procurement; or
3. Competition has been determined to be inadequate after proposals from several sources have been sought.

In all cases where non-competitive negotiation is to be used, the grantee must seek prior EOCD authorization. Documentation of the selection process should be maintained in a file.

In procuring professional services for program administration grantees should use either the competitive sealed bid or competitive negotiation process mentioned earlier.

Grantees may be exempt from the requirement to use either of these two methods only if the following conditions are met: the cost of the services are less than \$5,000 and the specific criteria of OMB Circular A-102, Attachment O for the use of the small purchase method or non-competitive negotiation, are met.

5.2 Procedure for Documenting Procurement

Massachusetts General Law (MGL) Chapter 30B procurement methods and dollar thresholds are consistent with OMB A-102 and MSCP Policy. However, the procedures for documenting the process are more stringent under Chapter 30B. While local governments must follow these requirements, MSCP will monitor grantees only on the basis of A-102 requirements.

According to Attachment O, the significant aspects of the history of a procurement procedure must be well-documented in the grantee's files. Documentation should include, but not necessarily be limited to the following:

- A. An explanation of the type of procurement method chosen, explicitly stated, and rationale for this choice.
- B. The cost analysis performed. For example, if a grantee seeks to procure the services of a firm to administer its program, it should develop some basis for a reasonable cost of each service desired in order to avoid unnecessary or duplicate charges. Such information can then be used as a basis for evaluating proposal costs and negotiating these costs with contractors to get the greatest amount of services possible within the approved budget.
- C. The details of the solicitation method. For example, if the method of competitive negotiation is selected and a Request for Proposal is publicized through a newspaper advertisement, the records should contain:
 - 1. A copy of the ad, its dates of publication, and the names of the papers in which it appeared. Note that documentation of minority, woman-owned, small business, and surplus labor area outreach efforts should be included. This advertisement must be clearly written and describe the technical requirements of the equipment or services.
 - 2. The Request for Proposal. The record should identify all significant evaluation factors, including price where required, and the relative importance of these criteria in the decision making process.
 - 3. Responses to the Request for Proposals and the dates of their receipt.
- D. The details of the evaluation process. For example, if the method of competitive negotiation is used, records should include the ranking of proposals, a list of contractors interviewed and/or negotiated with, an explanation of negotiation methods, the basis of contractor selection and rejection, identification of participants in the selection process, documentation of approval of the contract award by the Board of Selectmen or other appropriate party, when required, and documentation of notification to contractors of their selection or rejection.
- E. An explanation for the selection of contract type and a copy of the contract.

5.3 Types of Contracts

Contracts are legally binding agreements between at least two parties. In the context of MSCP, contracts are primarily used to procure services, supplies and construction work. The following describes types of contracts that grantees may enter into.

- A. Cost plus fixed fee contracts for general technical assistance and management services, which are on an as needed basis and contracts which extend over a long period of time or are entered into as needed. Feasibility studies, engineering plans, appraisals, and audits can be contracted on either a cost plus fixed fee or a fixed price basis.
- B. A fixed price contract is a contract executed for a "fixed price" under which the contractor must complete the entire scope of services within the dollar amount given. It is not recommended for construction contracts since it does not allow for alternatives, and change orders are not easily incorporated. These should only be undertaken when the community knows the usual cost for such services.
- C. Unit price contracts which include deductible alternatives are usually executed for large construction contracts. Although a price for the complete scope of services is obtained, the price is based upon unit cost (i.e. price per square foot). These contracts allow for alternatives to be added or removed, as needed, to come within the cost constraints of the project.
- D. Per diem contracts state only the amount to be paid per day for services specified. They are most suitable for short term specialized assistance. Under such a contract, the contractor receives a fixed amount of money for each day worked on a project. When this type of contract is used, the maximum number of days and maximum amount payable under the contract should be specified.
- E. Professional service contracts are most appropriate for securing engineering, accounting, architectural, and consulting services. Sometimes these services are best provided by a particular firm. At other times a variety of firms may be capable of accomplishing the required tasks. If the capabilities of one firm are unique and competitive bidding procedures are waived, a justification for the waiver of these procedures should be written and filed. If a variety of firms are capable of providing services, then the service requirements should be described in a series of specifications and circulated to potential contractors capable of performing the services. The procurement and selection of a contractor should follow the procedures in the procurement section of the Financial Management Manual. Note that prior EOCD approval of the contract is required when undertaking this type of procurement.
- F. Third Party Contracts are binding agreements between your community and any party other than the state, a city department, a non-profit organization or provider of professional services. The state and your City/Town are considered the first and second parties. Professional services contracts are not included in the MSCP definition of a third party contract since the nature of service contracts are considerably different than construction or other types of third party contracts.

- G. Agency contracts includes contracts and agreements with public agencies and non-profit agencies to deliver services eligible under the Small Cities Program. Control over activities is accomplished by regulating disbursements or reimbursements consistent with performance. This type of contract should not be used for non-employee consultants. Professional services contracts are more appropriate for retaining consultant services.

5.4 The Content of the Contracts

There are four key sections to every contract: **scope, cost, duration and compliance** requirements. The grantee should also include a fifth section which requires contractors to report specific financial and compliance requirements. In addition, grantees may include: statements that clarify specific milestones, a pre-audit of the contractors management capability, the addresses of work sites, the schedule of payments, retention of 10 percent of each invoice as a control device, the final inspection, and other pertinent information.

Rehabilitation contracts, in particular, should stipulate that the grantee or its designee shall have the right to make final inspections of the rehabilitation work to ensure that it complies with work write-up provisions, the grantee or its designee shall have the right to require the contractor to return to make corrections.

All contracts must contain the beginning and ending date of the contract (month, day and year). Open ended contracts are not allowable. Extensions of a contract may be granted by your office through an addendum to the contract.

The scope, cost, duration and compliance requirements for the three types of contracts are outlined in the following table:

TYPE OF CONTRACT	SCOPE	COST	DURATION	COMPLIANCE
5.4.1 Professional Service Contracts	<p>This section should indicate the specific tasks or activities to be carried out. They must be clearly stated and directly related to Small Cities program elements. Task statements should be explicit to ensure that your city/town receives the desired service</p>	<p>Personal services can be difficult to qualify in terms of both hour and cost. Grantees should carefully consider the maximum cost prior to entering into a letter of agreement. The maximum amount allocated to a particular activity should not be overstated since this will affect the encumbered balance of the account and reduce management control. Accordingly, statements of maximum cost should be based on negotiations with prospective contractors. This section should also specify the method of payment</p>	<p>In many cases, the exact duration of this type of contract is difficult to estimate since contractors may be prevented from performing as a result of factors beyond their control.</p> <p>For example, the completion of architectural services by one firm may be contingent upon engineering reports from another which are not delivered on time. However, open-ended contracts provide no effective means to monitor performance and ensure quality and are, therefore, not allowed under MSCP. Grantees might consider setting a series of milestones based on completion of either a percentage of a job or identifiable sub-tasks within a task. No contract of this type should extend beyond the grant termination date.</p>	

TYPE OF CONTRACT	SCOPE	COST	DURATION	COMPLIANCE
5.4.2 Third Party Contracts	<p>A clear statement of the project activities must be attached to the project's performance contract. For physical improvements, the scope should include information relative to the geographic area within which the activity will occur, as well as a statement of the expected result or product under the contract. For major acquisitions, a detailed site plan should be included in the scope section of the agreement. Other projects may include a series of interrelated tasks (e.g. survey, design, demolition, construction) intended to produce a single product. Although a single contract may be used, the scope of each task should be identified.</p>	<p>A detailed project budget - broken down on a line item basis - should be included in the contract and will constitute the primary project cost control mechanism. Since significant resources will be committed in each agreement, a schedule of payments based on monitored work progress may be incorporated within the contract. This device is especially useful when the project involves a series of inter-related tasks or when unit cost estimates are the basis for determining overall project cost.</p>	<p>The ending date of the contract should not exceed the end of the grant term.</p>	<p>The complete compliance package must be attached to each contract of this type. Compliance for construction contracts is detailed in the <i>MSCP Construction Contract Manual</i></p>

TYPE OF CONTRACT	SCOPE	COST	DURATION	COMPLIANCE
5.4.3 Agency Contracts	<p>This type of agreement covers city/town departments specifically assigned to the MSCP effort; it may be either a formal contract or an agreement by memorandum. The scope section should include a job description or other statement of duties for each employee assigned. While the specific format for this section is variable, it should specify the title of the supervisor responsible for approving time sheets and authorizing expenses.</p>	<p>An aggregate total cost must be calculated and clearly stated. The aggregate cost should include any indirect costs that the city/town receives as a result of MSCP activities. Grantees are reminded that indirect costs may only be charged to MSCP after the submission and approval of a cost allocation plan.</p>	<p>A specific starting and ending date must be incorporated within each contract. The ending date should not exceed the date of the grant agreement.</p>	<p>The compliance provisions that apply to the Town/City by virtue of the contract with the state also applies to any MSCP work accomplished by the City/Town departments.</p>

An MSCP construction contract boiler plate is available to all grantees. You may also refer to Chapter II of the Construction Manual. Grantees should avoid contracts with those who offer services on a contingent fee basis (a percentage of the grant amount). Those firms which guarantee funding and request a management contract in return for writing an application should also be avoided.

When services are retained by a community to prepare an MSCP application, the local officials should work with the consultant to learn about the implementation of the proposed program. Grantees must also comply with certain requirements concerning contract content and monitoring when procuring professional services. The choice of procurement method and the contract type to be used should be appropriate and well-documented.

Two important requirements cited in A-102, Attachment O, are (1) that the contract include an appropriate compliance section and (2) that the grantee maintain an administrative system for monitoring contracts that ensures that the contractor performs in accordance with the terms and conditions of the contract. Grantees should make contractor payment contingent upon receipt of verification that the terms and conditions of the contract have all been met.

Procurement of Contracting with Management Services Consultants

Grantees who plan to utilize management services consultants to administer part or all of their General Fund award, or consultants for technical assistance in the design, implementation, or evaluation of their program, shall submit documentation of the procurement process, and the draft Management Services Contract to EOCD for prior approval.

These requirements derive from OMB circular A-87 and A-102, and are included as conditions in the Grant Agreement for the MSCP General Fund. These requirements are intended to help ensure that: (a) proper procurement was followed prior to funds being legally obligated to consultants; and (b) adequate language is included in the Management Services Contract to permit the city/town to keep the consultant accountable to the city/town's program goals, and to MSCP policies and procedures.

Generally, a City/Town must follow a competitive procurement process in soliciting and selecting a management services consultant. The procedures are detailed in MSCP Financial Compliance Manual, Chapter 3, and are designed to promote "maximum free and open competition" so that the city/town receives efficient and effective services. While the procedures vary somewhat depending on the dollar amount of the proposed contract, basically what is required is the following:

1. Establishment of proposal review criteria prior to the actual receipt of proposals.
2. Formal advertisement and/or extensive outreach to prospective vendors
3. Compliance with affirmative action/equal employment opportunity standards
4. Documentation of the basis by which the selection of the consultant was made

5.5 Massachusetts Contracting Requirements

In addition to the federal requirements for procuring services and selecting one of the contract types mentioned above, there are a number of state requirements which must be addressed. These are, for the most part, contained in MGL Chapter 579 and are summarized below.

A. When a project involves a public building, the grantee should note compliance requirements under MGL Chapter 579, Acts of 1980-Division Capital Planning and Operations. (MGL Chapter 7, Section 30 B-P as amended) which requires the following:

1. Contractor Qualification - Contractors must apply to bid on public building projects estimated to cost more than \$5,000.
2. Designer Selection - Cities/Towns must comply with the designer selection procedures when awarding of contracts for architectural, engineering and design services for public building projects estimated to cost more than \$10,000.

The above requirements do not apply to projects involving infrastructure or private property rehabilitation.

B. With regard to advertising, public bidding, awarding of contracts, the following should be noted as these appear in Massachusetts General Laws (MGL) as amended by Chapter 579 Acts of 1980 Chapter 149:

Section 44A: Contracts for construction, repair, maintenance, demolition, etc., of any building by a public agency estimated to cost more than \$5,000 requires competitive bidding. Award shall be made within 30 days.

Section 44B: Requires plans and specification be made available to bidders; daily update of persons requesting same.

Section 44C: Contractor debarment list established and maintained by DCPO.

Section 44D: Pre-qualification of bidders; Application to bid.

Section 44E: Filing of general bids.

Section 44F: Filing of sub-bids.

Section 44G: Prohibition of allowances in the award of any contract use of alternative. Weather protection and heat during construction.

From Chapter 43

Section 28: Award of public contracts for construction work, equipment, supplies or materials over \$2,000 requires RFP published in newspaper once a week for two (2) consecutive weeks, last publication appearing at least one (1) week prior to opening or proposals.

From Chapter 40

Section 4B: Purchases of equipment, supplies or materials by towns and districts costing over \$2,000 must be invited by advertisement in local newspaper at least one (1) week prior to specified time for opening of proposals.

Section 4G: Amends Section 4B (stated above) by requiring competitive bidding costing over \$4,000 or more, rather than the \$2,000 limit required by Section 4B. However, a community may through a recorded legislative vote (City/Town Council Order) amend this procedure to go back to the requirements of Section 4B.

From Chapter 29

Section 8A: Contracts for construction, repair, development, etc., of any physical property at public expenses by any body receiving periodic appropriation from the state.

- a. require posting of RFP one (1) week prior to time specified for opening of proposals if cost exceeds \$1,000.
- b. require publishing of RFP two (2) weeks prior if cost exceeds \$5,000.

From Chapter 30

Section 39M: Awarding of contracts for construction, repair, etc., of any public work or purchases of any material by the Commonwealth or political subdivision costing over \$5,000 or over \$2,000 by any other awarding authority, requires competitive bidding. Does not apply to contracts subject to Chapter 149 Section 44A.

5.6 THE PROCUREMENT OF CONSTRUCTION SERVICES

Citation: Chapter 3, Financial Compliance Manual
Construction Manual
Construction Contract Boilerplate
Conducting Pre-Construction Conferences (HUD Guidebook)
HUD Handbook 1344.1- Federal Labor Standards Compliance in Housing and Community Development Programs (Chapter 2).
MSCP Construction Manual Chapter 5, Section B.
Grant Agreement, Sections 4.11 , Procurement Standards; and 4.14 Labor Standards

The following discusses the procedures and policies of the Pre-Construction Conference, selecting a contractor, and the applicability of Davis Bacon and Related Acts (DBRA) with regard to construction services. This section describes the procedures, rules and regulations to be considered when procuring MSCP-funded construction services. These construction services cover contracts from \$2,000 and above and include private property rehabilitation as well as infrastructure projects.

A. The Pre-Construction Conference

A pre-construction conference must be held after contract award to inform the contractor of his/her responsibilities, including equal opportunity, labor standards and other State and local provisions. The objective of the grantee should be to prevent violations of the labor standards requirements.

1. Organized and conducted by the grantee or an appropriate designee such as an architect or engineer, this meeting is held to introduce all participants to the relevant requirements.

Among those required to attend are the prime contractor, the foreman or construction superintendent, and the person on his/her staff who will be preparing payrolls and any other city or town employees involved in the project.

2. An agenda must be prepared in advance and be distributed at the meeting. Minutes must be taken and kept in the project file for MSCP review. A pre-construction reporting format is shown in Exhibit I and in Appendix 15 of the MSCP Construction Manual.

B. Contractor Selection

This section briefly summarizes issues grantees should consider when selecting contractors and suggests some outreach activities to increase the pool of available contractors.

Grantees must adhere to certain procedures so that regardless of dollar value, any procurement of services will be conducted in a manner that provides for maximum free and open competition.

Considerations/Suggestions:

1. Asking for and checking a contractor's references will allow the grantee to determine whether the firm is experienced, competent, and timely. Grantees may wish to reconsider hiring contractors who can not provide three references.
2. A number of grantees also check contractors' credit histories which mean that each contractor must sign a Credit Report Release form.
3. Some grantees have contractors fill out application forms. The form asks for information on the firm's work history, its licensing and association, and the types and limits of the firm's insurance.
4. Grantees may also find it useful to keep a list of both general contractors and those who specialize (e.g., electrician, plumber, roofer, etc.)
5. In order to increase outreach, some communities send a letter of invitation to all area contractors, indicating the amount and type of work the community will be doing.
6. One community informed local building materials suppliers of the rehabilitation project. In an effort to increase their sales, the suppliers notified contractors.

C. Davis-Bacon and Related Acts

Citations: 29 CFR Parts 1,3,5,7
29 CFR Section 5; Contract Work Hours and Safety Standards Act
29 CFR Section 3; Copeland "Anti-Kickback" Act
MSCP Construction Manual

All MSCP construction contracts must comply with Federal Labor Standards Provisions. This section examines major Federal and State laws and requirements relating to construction contracts and provides a summary of those laws.

It is important to determine the applicability of Federal Labor Standards Provisions at the onset of a project. This will help to ensure compliance, and allow effective planning and project implementation to progress efficiently. Questions regarding applicability of labor standards and prevailing wage requirements should be referred to an MSCP Representative. Generally, wage situations should be reviewed on a case-by-case basis to determine which laws apply in each instance.

Most construction projects, including alteration and rehabilitation, which are funded, in whole or in part, with Federal funds must comply with Federal Labor Standards Provisions. The three primary laws involved are the Davis-Bacon Act; the Copeland "Anti-Kickback" Act; and the Contract Work Hours and Safety Standards Act. A brief summary of these related acts follows:

1. Davis-Bacon Act: Statutory provisions of this Act (see HUD Handbook 1344.1) require that Federal prevailing wages must be paid to workers involved in construction contracts which exceed \$2,000. This provision would apply regardless of the amount of MSCP funding assistance. The rehabilitation of residential property designed for less than eight (8) units is exempt from prevailing wage rates.
2. Copeland "Anti-Kickback" Act: This act requires that all workers be paid weekly, and any deductions from their pay be permissible according to a list of eligible deductions. Contractors must keep weekly payrolls and submit these payrolls with compliance statements to the grantee for review. (See sample in Exhibit ? and Appendix 3 of the MSCP Construction Manual).
3. Contract Work Hours Act: Amended in 198?, this Act requires that workers receive time and one half compensation after they have worked 40 hours in one week. This is required for all contracts in excess of \$2,000.
4. Davis-Bacon Exemptions: There are certain exceptions to the Davis-Bacon Act. These regulations do not apply in the following instances:
 - i. Construction contracts at or below \$2,000. It should be noted that arbitrarily separating a project into contracts of less than \$2,000 in order to circumvent these provisions is not permitted.
 - ii. Rehabilitation of residential structures containing less than eight units.
 - iii. Purchase of property. Property acquisition on which construction will subsequently take place with private funds does not currently require Davis-Bacon wage rates on such construction.
 - iv. Clean-up after construction.

5. Davis-Bacon applicable situations HUD has ruled on several determination requests, finding that in the following assistance situations Davis-Bacon and Related Acts provisions apply if the contract exceeds \$2,000;

- i. Rooming houses, including single-room occupancy units, are viewed as commercial facilities as they are enterprises with rooms for rent.
- ii. Rebates or grants to commercial owners regardless of the financing method or procedure constitutes financing.
- iii. Cleaning work performed during the construction period.
- iv. Installation of elevators or boilers in federally-assisted projects is DBRA-eligible. (Installation of incidental items including shades and drapes would be exempt).

5.7 PROPERTY MANAGEMENT STANDARDS

Citation: OMB Circular A-102, Attachment N, as it relates to MSCP policy.

When property is acquired, used and disposed of, the following property management standards must be adhered to. Recipients of MSCP funds may use a limited portion of their administrative funds to purchase supplies and equipment necessary to furnish and administer their program. Although grantees are required to give a general breakdown of these costs in the grant application, the elements of OMB Circular A-102 require that grantees document the purchase, use and disposition of this property in detail. The two types of tangible personal property governed by A-102 and the required property management standards to be followed are described below:

- A. Exempt property is tangible personal property valued at less than \$300 and with a useful life of less than one year. This includes office supplies such as paper, pens, small calculators, file folders, etc.

The grantee retains title to this property and is not required to keep the property management records described in (B) below. It is suggested, however, that grantees keep track of the items purchased, the cost, the supplier, and other relevant information in order to develop and maintain a cost efficient purchase system.

- B. Non-expendable personal property is tangible personal property having a useful life of more than one year and an acquisition cost of more than \$300. EOCD retains title to this property and requires that grantees keep an accurate up-to-date property management register.

This register should include the following information:

1. a description of the property
2. an identification number (serial number, model number, stock number, etc.)
3. source of funds to purchase the property including grant or other agreement number
4. whether title vests in the grantee or MSCP
5. acquisition date
6. percentage of MSCP participation in the cost of the property
7. location, use and condition of the property and the date the information was reported
8. unit acquisition cost
9. ultimate disposition data, including date of disposal and sale price or the method used to determine current fair market value where a grantee compensates MSCP for its share.

C. The grantee may continue using the property in the program as long as it is needed whether or not the project is still supported by EOCD. The grantee shall retain title to the property provided they use it for the authorized purpose of the original grant. When the property is no longer needed for the original grant purpose, EOCD approval is needed for its continued use in other projects. Use of the property for other projects shall be limited to other federal grant programs or those with a purpose consistent with the original project.

D. Nonexpendable personal property having a unit acquisition cost of \$1000 or more may be reclaimed by EOCD or transferred to another grantee at the discretion of EOCD.

When the property is no longer needed, the grantee shall request disposition instructions from EOCD. Disposition options may consist of the following:

1. The grantee may retain title after buying back the amount equal to the percentage of participation in the original project (at fair market value) from EOCD; or
2. Direct the grantee to sell the property and reimburse to EOCD the amount derived by applying the MSCP percentage of participation in the original project to the sale proceeds (after deducting actual upkeep and selling expenses); or
3. Direct the grantee to transfer ownership of the property to EOCD upon reimbursement from EOCD. Compensation shall be based on the grantee's percentage of participation in the cost.

E. Common Problems:

1. Grantee does not maintain a property management register.
2. Grantee does not update the property management register as new items are purchased.

Exhibit I

Sample
Pre-Construction Report Format

Project Name: _____ Project #: _____

Location: _____

Description of Work to be Performed: _____

Contractor: _____ Contract Amount: \$ _____

Conference Date: ____/____/____ Place: _____

Participants:	<u>Names</u>	<u>Titles</u>
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____

Items Covered:

- | | |
|--|--|
| <input type="checkbox"/> Labor Standards | <input type="checkbox"/> Grantee Role and Responsibilities |
| <input type="checkbox"/> Housing and Urban Development
Act of 1968, Section 3 | <input type="checkbox"/> Contractor's Role and
Responsibilities |
| <input type="checkbox"/> Equal Opportunity | <input type="checkbox"/> Reporting Requirements and
Sanctions |

Other: _____

PRECONSTRUCTION CHECKLIST FOR CONTRACTORS: MEETING

LABOR STANDARDS CONTRACT REQUIREMENTS

- I. INTRODUCTION. The following checklist has been prepared to assist contractors and subcontractors in meeting contractual labor standards responsibilities. All major administrative and procedural activities have been covered in the sequence they will occur as the construction project proceeds. Careful attention to and use of the checklist should result in a minimum number of problems with respect to labor standards.
- II. EXPLANATORY NOTES. The word "employer" as used below refers to the project contractor, each subcontractor, or each lower-tier subcontractor. Payrolls and other documentary evidence of compliance (marked with an asterisk) are required to be sent to the grantee for review (all to be submitted through the project contractor). The delivery procedure is as follows:
- A. Each lower-tier subcontractor, after careful review, submits required documents to the respective subcontractor.
 - B. Each subcontractor, after checking his own and those of each lower-tier subcontractor he may have, submits required documents to the contractor.
 - C. The contractor, after reviewing all payrolls and other documentation, including his own, and correcting violations where necessary, submits all to the grantee.

All employers should check each of the following statements as being true. If any statement is not true, the contractor or his representative should contact the grantee for special guidance.

III. BEFORE CONSTRUCTION BEGINS EACH EMPLOYER HAS:

- A. Not been debarred or otherwise made ineligible to participate in any Federal or Federally-assisted project. _____
- B. Received appropriate contract provisions covering labor standards requirements. _____
- C. Reviewed and understands all labor standards contract provisions. _____
- D. Received the wage decision as part of the contract. _____

E. Requested through the grantee and received the minimum wage for each classification to be worked on the project which was not included on the wage decision by the additional classification process and before allowing any such trade(s) to work on the project.

*F. Requested and received certification of his apprentice program from the State's Bureau of Apprenticeship and Training (recognized by USBAT) and submitted copy thereof to the grantee prior to employment on the project. Likewise, "trainee" program certification from USBAT if applicable, must be submitted.

IV. AT CONSTRUCTION START THE CONTRACTOR HAS:

A. Received a Notice to Proceed from the grantee.

*B. Notified grantee of construction start date in writing.

C. Has placed each of the following on a bulletin board prominently located on the project site which can be seen easily by the workers (and replaced if lost or unreadable any time during construction):

- Wage Decision

- Notice to Employees

- Safety and Health Protection on the Job (DOL)

D. Before assigning each project worker to work, has obtained worker's name, best mailing address, and Social Security Number (for payroll purposes).

*E. Has obtained a copy of each apprentice's certificate with the apprentice's registration number and his year of apprenticeship from the State BAT.

F. Has informed each worker of:

1. his work classification (journeyman or job title) as it will appear on the payroll;

2. his duties of work;

3. the U.S. Department of Labor's requirement on this project that he is either a journeyman, apprentice, or laborer -

If journeyman, he is to be paid journeyman's minimum wage rate or more;

If apprentice, he is to be paid not less than the apprentice's rate for the trade based on his year of apprenticeship; or

If laborer, he is to do laborer's work only - not use any tool or tools of the trade - and not perform any part of a journeyman's work - and is to be paid the laborer's minimum wage rate or more.

G. Understands the requirements that each laborer or mechanic who performs work on the project in more than one classification within the same work week shall be classified and paid at the highest wage rate applicable to any of the work which he performs unless the following requirements are met:

1. Accurate daily time records shall be maintained. These records must show the time worked in each classification, and must be signed by the workman.
 2. The payroll shall show the hours worked in each classification and the wage rate paid for each classification.
 3. The payroll shall be signed by the workman or a signed copy of the daily time record shall be attached thereto.
-

H. Has informed each worker of his hourly wages (not less than the minimum wage rate for this work which is stated in the Wage Decision).

1. time and a half for all work over 8 hours any day or over 40 hours any work week (see Contract Work Hours Safety Standards Act).
 2. fringe benefits, if any (see Wage Decision for any required).
 3. deductions from his pay.
-

I. Has informed each worker that he is subject to being interviewed on the job by the grantee or a DCA, Department of Labor, or other inspector, to confirm that his employer is complying with all labor requirements.

J. Has informed each journeyman and each apprentice that a journeyman must be on the job at all times when an apprentice is working.

Chapter 6.0 Program Activities

Description: This chapter discusses the major categories of projects funded under the Community Development Block Grant (CDBG) as administered by the Massachusetts Small Cities program (MSCP). Following each major project heading is a discussion of the policies governing these activities and procedures that present and past grantees have utilized in order to implement their respective grant programs.

The following activities are discussed: Housing Rehabilitation, Economic Development, including Small Business Revolving Loan Funds and Commercial Improvements (signs and facades), Acquisition, Clearance and Demolition, Public Facilities (Streets and Sidewalks, Drainage and other Water Projects), Public and Social Services, and Other Eligible Activities.

Citation: 24 CFR 570.208 (A) (3)
24 CFR 570.202

Procedure: Each project category will include a discussion of the eligibility criteria as well as documentation requirements in order to comply with meeting the national objective chosen for the activity.

6.1 Housing Rehabilitation

A housing rehabilitation activity is an eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low and moderate income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property, conversion of non-residential structures, and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at 51 percent of the units must be so occupied. For rental housing; occupancy by low and moderate income households must be at affordable rents.

A. Eligible Activities:

1. Acquisition of privately-owned buildings and improvement for residential purpose;
2. Rehabilitation of low-income public housing and other publicly-owned residential buildings and improvements;
3. the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937,
4. provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low and moderate income persons.
5. payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title,

6. relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate,
7. disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to Title I, or its retention for public purposes, and
8. code enforcement in deteriorated or deteriorating areas in which such enforcement together with public improvements and services to be provided, may be expected to arrest the decline of the area,

B. Documentation of Compliance With the National Objective

For meeting the national objective of benefit to low and moderate income persons, grantees are required to obtain and keep on file documentation of income for (1) tenants who benefit from housing rehabilitation programs and (2) clients served through direct benefit programs. Grantees cannot claim low/moderate benefit as their national objective without such documentation.

Grantees must require documentation of gross income (before taxes and deductions) for a minimum period of eight (8) weeks prior to filing the application for assistance. Information should be collected from each of the categories below, as appropriate. Within each category are several sources which may be used to document participants' incomes. **Please note that certified copies of IRS forms must be requested directly from the IRS and should only be used as evidence of income in extraordinary circumstances.**

Communities may use any one or a combination of the documentation presented in the following table to document compliance with the national objective of benefit to low and moderate income persons. However, before more strict requirements are imposed, communities should be sure that additional conditions will not hinder or discourage program participation. If you need more specific guidance on a particular case be sure to call your MSCP program representative.

Grantees who administer program activities which directly serve individuals or households who are of low or moderate income must meet certain eligibility requirements based on median household income. HUD has issued income limits for low and moderate income households of one to eight persons based upon groupings of communities by Principal Metropolitan Statistical Areas (PMSA), Metropolitan Statistical Areas (MSA) and counties.

Income limits must be determined by gross yearly income. Total household income should be verified including that of all individuals, 18 years and older. Income of full-time students need not be included in calculating gross income.

MSCP grantees should also use Section 8 income limits to calculate and report the number of low and moderate income beneficiaries in Quarterly Reports and in-house tracking. These income limits provide grantees with the maximum allowable gross household income thresholds that can be used in determining participation in an activity which serve low and moderate income beneficiaries.

MSCP Types of Income Documentation		
TYPE OF INCOME	DOCUMENTATION	CONSIDERATIONS
Employment Income:	<ol style="list-style-type: none"> 1. Signed and dated letter from the employer (on the employer's stationary) stating the amount of gross wages (before taxes and deductions) the tenant/client earned during a minimum of 8 weeks (or 2 months) preceding the date of application for assistance. 2. Copies of pay stubs indicating the tenant/client's gross income for a minimum of 8 weeks (2 months) preceding the date of the application. Stubs should indicate the name and social security number. 3. An employee verification form provided by the program, signed and dated by an authorized official of the employing firm, which indicates the tenant/client's gross income for a minimum of 8 weeks (2 months) preceding. 	<p>W-2 forms are unacceptable with the exception of self-employed individuals.</p> <p>Under extraordinary circumstances an IRS certified copy of the previous year's tax return (1040 or 1040A) may be accepted in lieu of 1, 2 or 3.</p> <p>Overtime is countable income and will be annualized to reflect average weekly income.</p> <p>One-time bonuses are counted at face value and included in gross income but not annualized.</p> <p>Tips are annualized. If the hourly wage is below the Minimum Wage Rate, income from tips must be documented.</p>

MSCP Types of Income Documentation		
TYPE OF INCOME	DOCUMENTATION	CONSIDERATIONS
Self-employment income:		
1. Sole Proprietorship	<p>IRS certified prior year tax return, Form 1040, complete with Schedule C, Profit or Loss from Business or Profession.</p> <p>If there are employees, a certified copy of Form 941, Quarterly Return, must also be provided.</p> <p>IRS certified prior year tax return, Form 1040, with Form 1065, V.S. Partnership Return of Income, and the Form 1064-Schedule K-1, Partner's Share of Income, Credits, Deductions, Etc.</p> <p>If there are employees, a certified copy of the current Form 941, Quarterly Return, must also be included.</p>	<p>When obtaining income verification for a self-employed person, the most recent federal tax return forms must be used. In determining income, Adjust Gross Income is now used. The determination means deductions for the cost of running the business are now allowed.</p> <p>Each case should be reviewed and it is at the discretion of the individual administrator to obtain any additional income documentation should there be any question or doubt concerning a person's source of income.</p>
2. Partnership		
3. Corporation	<p>If the tenant/client is the entire corporation, it must be documented by the submission of an IRS certified prior year Form 1120, U.S. Income Tax Return for a corporation. If the tenant/client is only a shareholder, an IRS certified prior year Form 1040 with Form 1120 and Schedule K-1 must be provided. In either case, if there are employees, a certified copy of Form 941 must also be provided.</p>	

MSCP Types of Income Documentation		
TYPE OF INCOME	DOCUMENTATION	CONSIDERATIONS
4. Odd Jobs Self-Employment	Tenants/clients who earn income through miscellaneous "odd jobs" must document this self-employment by a notarized financial statement which includes a listing of jobs performed, names and addresses of persons for whom work was done, and all payments received for the 8 weeks (2 months) preceding the date of application for assistance. These persons should also submit an IRS certified copy of their tax return for the previous year.	
Non-employment Income:		
1. Unemployment	<ol style="list-style-type: none"> 1. A signed statement from the Division of Employment Security (DES) indicating the amount of benefits and the date benefits were received. 2. A copy of a DES claim record, provided it is legible and indicates the amount of benefits and the period for which benefits were received. 	

MSCP Types of Income Documentation		
TYPE OF INCOME	DOCUMENTATION	CONSIDERATIONS
2. Social Security	<ol style="list-style-type: none"> 1. An official SSI or SSA printout indicating current monthly benefits, including the Medicare premium. 2. A copy of a current social security check (within 30 days) with the standard Medicare premium added, plus a copy of the previous year's IRS-certified tax return. 3. A statement from the tenant/client's bank or a copy of a bank direct deposit slip indicating the amount and source. 4. A signed and dated letter from a Massachusetts Executive Office of Elder Affairs Home Care Corporation indicating current amount of benefits. 	
3. Aid to Families with Dependent Children	A Welfare Department current statement of benefits, signed and dated by an authorized Department of Public Welfare (DPW) official.	

MSCP Types of Income Documentation		
TYPE OF INCOME	DOCUMENTATION	CONSIDERATIONS
4. Veterans Benefits	<ol style="list-style-type: none"> 1. A signed letter, dated within 90 days of application, from the V.A. office indicating the current amount of assistance. 2. A copy of a current check, check stub, or a bank direct deposit slip, plus a copy of the previous year's IRS-certified tax return. 3. A copy of an agency prepared form, signed and dated by an authorized V.A. official, indicating current benefits. 	
5. Worker's Compensation	<ol style="list-style-type: none"> 1. A statement or completed verification form from employer, insurance company, attorney, or record from union office which indicates amount, frequency and effective date of payments. 2. A copy of a recent check showing date of loss, accompanied by a declaration of check frequency plus a copy of the previous year's IRS-certified tax return. 	

MSCP Types of Income Documentation		
TYPE OF INCOME	DOCUMENTATION	CONSIDERATIONS
6. Retirement and Pension Income	<ol style="list-style-type: none"> 1. A current letter or completed verification form from the pension source indicating the type, amount, frequency, and effective date of benefits plus previous year's IRS-certified tax return. 2. A copy of a current check, check stub, or bank direct deposit slip, plus documentation of payment frequency and a copy of the previous year's IRS-certified tax return. 	
7. Alimony	<ol style="list-style-type: none"> 1. Copies of checks or bank direct deposit slips for the previous 8 weeks (2 months), if applicable, plus a copy of the previous year's IRS-certified tax return. 2. A copy of current court order indicating the amount and frequency of payments and a copy of the previous year's IRS-certified tax return. 3. A letter from the attorney of record or legal agency indicating the amount and frequency of payments plus a copy of the previous year's IRS-certified tax return. 	
8. Child Support	<p>Child support that is received is sometimes included in alimony check (payments). Grantees should inquire if included.</p> <p>Child support is considered income.</p>	<p>Child support paid out cannot be deducted from total gross annual income and must be included in the calculation of total annual income. No deduction is allowed.</p>

MSCP Types of Income Documentation		
TYPE OF INCOME	DOCUMENTATION	CONSIDERATIONS
9. Foster Care Receipts	Payments received for foster care are not considered income (temporary status).	Foster children are not counted for determining Section 8 limits based on household size.
Miscellaneous Income:		
1. Interest	If more than \$100 in interest is earned annually, the tenant/client must supply a bank statement indicating amounts received for at least the past 8 weeks (2 months).	
2. Dividends	1. Copies of dividend checks or stub clearly identified and accompanied with a declaration of check frequency. 2. A letter from the dividend source stating amounts and frequency of dividend payments.	

C. Determining Unit Eligibility

The following are the minimum income criteria tenants of a property must meet if the property is to be assisted with MSCP funds. Grantees may be more restrictive if they choose, however, they should consider whether additional restrictions will inhibit timely implementation of their program and discourage participation.

1. **Single Unit Structure:** The resident of the structure must be income eligible. If not owner-occupied, the owner can be of any income as long as the tenant is eligible.
2. **Two Unit Structure:** One of the two units must be occupied by an income eligible household. If one unit is occupied by the owner and the owner is income eligible, then the other unit may or may not be occupied by an over income household. If one unit is occupied by the owner and the owner is not income eligible, then the remaining unit must be occupied by an income eligible household.
3. **Three or More Units:** At least 51% of the units must be occupied by households which are income eligible. Owner occupied units are included in this calculation. Vacant units can be counted as income eligible as long as the owner agrees, in writing, to limit rent charges to the Fair Market Rent (FMR) or below for a minimum of two years (see Section on Rental Agreements elsewhere in this Chapter).

The grantee's program design will also affect whether a unit is eligible for funding. In all circumstances MSCP expects communities to administer their programs as presented in their applications unless the changes have received prior approval by MSCP. If the program design calls for 100% low-moderate income benefit, the grantee may only fund units occupied by low-moderate income households.

Occasionally, an owner will seek to rehabilitate only one or two units in a multi-unit structure. In such a case, the assisted units must be occupied by income eligible tenants. It should be noted that the MSCP encourages communities to design their programs so that all units in a structure are rehabilitated.

Communities should follow specific guidelines in the attachment to the annual Section 8 Income Limits issued by HUD.

D. Rental Agreements

Owners of rental property rehabilitated with MSCP funds are required to sign an agreement agreeing to limit rent increases for a minimum of two years after completion of the rehabilitation (see the Grant Agreement, Attachment B). This requirement applies to units occupied by low or moderate income persons or units vacant at the time of the owner's application to the program. Rental increases are limited to EOCD's Annual Adjustment Factor (AAF).

Guidance on how to calculate the base rent can be found on the following page or in the grant agreement. This rental increase provision shall be included in the lease between the owner and the tenant or, if a lease is already in effect, the tenant shall be notified in writing of this rental increase restriction and the maximum allowable rent increase.

A recipient must design their Rental Agreements to incorporate a unit's base rent, allowable rent increases (AAF), the dates rent increases can occur, the effective date of the agreement, a sign-off by the tenant, and the procedure by which the tenant(s) will be notified of the Rental Agreement. The agreement shall also stipulate the property owner's responsibility to report vacancies to the grantee or other appropriate housing agencies.

For occupied units, rent increases can only occur twice during the period covered by the Rental Agreement, if it is a two year agreement. If there is no existing lease, rents can be increased according to the AAF upon completion of the rehabilitation. If the unit is under lease, increases can not occur until that lease expires. The second increase can occur one year after the first. Rental agreements for longer time periods should allow additional increases only at yearly intervals.

If a vacant unit is brought on to the market and rented according to the Fair Market Rent (FMR), a rent increase can take place one year after the signing of the new lease and yearly thereafter for the duration of the Rental Agreement. It is the responsibility of the grantee to monitor owners of rental property assisted with MSCP funds for compliance with Rental Agreements. In addition to a recapture policy, the grantee shall incorporate in the agreement legal recourse which can be undertaken if an owner does not abide by the terms of the rental agreement.

Grantees are required to submit a written copy of their Rental Agreement boilerplate to EOCD as part of their application for the General Fund Program or within thirty (30) of the signing of the Grant Agreement if noted in the Agreement's Attachment B, Special Conditions. Provisions which must be included in this agreement may be found in Attachment B of the grant agreement. Provisions for monitoring compliance with this agreement must be included in the Anti-Speculation/Recapture/Forgiveness Plan, which should provide for legal recourse in the case of non-compliance.

E. Fair Market Rents/Annual Adjustment Factor

The establishment of Fair Market Rents and the allowable rent increases for rental units assisted with MSCP funds is regulated by EOCD policy as summarized below.

1. Base Rent:

The actual rent level of a unit at the time of an application for housing rehabilitation assistance. For any unit vacant at the time of the owner's application, the base rent shall be calculated taking into consideration the operating expenses the owner incurs for the unit as well as the owner's share of the rehabilitation costs. In no event shall the base rent of vacant units exceed the Fair Market Rent (FMR) for that area.

2. Fair Market Rent (FMR):

The cost to rent modestly priced, decent, safe and sanitary housing in various housing market areas by bedroom size, as defined by HUD for use in its Section 8 Existing Housing Program. A copy of the FMR schedule is included on the following page.

3. Annual Adjustment Factor (AAF):

An affordability standard applied to the base rent of units assisted with MSCP funds at (1) the completion of rehabilitation, if there is no current lease, or upon the expiration of the existing lease, and (2) annually thereafter for the duration of the Rental Agreement. Limiting rental increases through application of the AAF is intended to insure the continued affordability of these units while allowing the owner a reasonable return on his or her investment.

For occupied units, the AAF is applied to the base rent as noted above. The rents shown on the attached schedule include utilities. Therefore, if the tenant is to be responsible for paying utilities the local housing authority should be contacted to determine the appropriate utility allowances for units in your area and the base rent reduced accordingly.

F. Financing Mechanisms

The housing rehabilitation programs use a variety of financing mechanisms as part of the program design. Generally, programs include, grants, deferred payment loans, low-interest and zero percent interest loans and interest pre-payment subsidies.

1. Grants

Direct grants to individuals that do not require payback tied to a recapture policy. Grants are normally given to individuals with incomes 50% below the median fixed incomes and/or unbankable.

2. Deferred Payment Loans (DPLs)

Loans which may or may not be self-declining depending upon the design of the housing rehabilitation program. They are based on the amount individual can afford to pay. The DPLs range in a variety of percentage amounts and are tied to anti-speculation and forgiveness.

3. Low interest and zero percent interest loans

In some instances, housing rehabilitation financing mechanisms include a low interest or zero percent interest loan to make the rehabilitation of an eligible project feasible. Generally, these loans are extended to investor-owners or eligible applicants whose rehabilitation requirements exceed the program's dollar cap.

4. Interest Pre-payment Subsidies

These are MSCP funds which are used to write-down the interest rates on conventional bank loans to an affordable rate (e.g. if the bank lends at 13%, the interest prepayment subsidy is calculated to derive an interest of 6%). These payments are made directly to the lending institution. The MSCP funds used as these subsidies do not reduce the face value of the loan, just the interest at which the money is borrowed.

G. Anti-Speculation/Recapture/Forgiveness Policy

A recapture policy is a plan established by a grantee which protects the rehabilitation program funds from real estate speculation. The common mechanism protecting MSCP resources is a time limitation on the sale or transfer of ownership of property rehabilitated. If a property is sold or transferred within the designated time period, full or partial funds are recovered by the grantee.

Each grantee is required to submit an anti-speculation recapture/forgiveness policy to MSCP, for approval, within their application for General Fund. If not acceptable, then submittal of this policy must be provided to the MSCP within 30 days of the execution of the grant agreement.

Recaptured funds are considered program income and their use of these funds is governed by its Program Income Plan. Contractual agreements between the grantee and owners of property assisted with MSCP resources should incorporate provisions against real estate speculation in the event of 1) sale or transfer of the property, 2) non-compliance by the property owner with the terms of the rental agreement, and 3) non-compliance with other provisions of the contract.

It is recommended that the time limitations associated with a grantee's recapture policy be appropriate for the level of investment of public funds, the specific economic conditions of the program beneficiary and the life of the rehabilitation work. These provisions must describe the procedures by which it will monitor compliance with the time limitations, forgiveness policy, with rental agreements, loan agreements, etc., including designation of responsible staff persons, and corrective action to be taken. Instances in which forgiveness for emergencies will be exercised during the recapture period (serious illness, etc.) should also be specified.

H. Liens and Mortgages

Liens and mortgages are two mechanisms which MSCP grantees use to enforce and protect the terms of recapture policies. Mortgages are usually used when a grantee uses the resources of a bank in conjunction with MSCP funds. In these instances, the banking institution assumes the responsibilities of filing, tracking, and clearing the mortgage. Since mortgages are overseen by the bank, no further discussion of them is necessary. It should be noted that the grantee's position with respect to the mortgage should be noted and understood by both the grantee staff or representative and the program recipient.

Liens, however, are overseen by the grantees and require a more formal process of monitoring by the grantee. Grantees using liens as the mechanism to enforce the terms of their recapture policy should, therefore, develop a formal system for filing, tracking and discharging liens. Although EOCD does not mandate any particular system for recording and discharging liens, we do urge those of you who do not have a formal system in place to develop one. A check on this will become part of our formal monitoring. The following are examples of systems currently being used by MSCP grantees:

1. **Lien Ledger Sheets.** The ledger sheet lists the owner's name, property address, book and age number where deed is recorded, loan or grant amount (and forgiveness schedule if applicable), date recorded, and date of expiration. A periodic review of this sheet is made and discharge notices sent to the Registry of Deeds when needed. The ledger sheet could be easily transferred to another municipal office if the community development activity was no longer administered.

2. Another grantee records a lien and gives a copy to the town counsel who has responsibility for discharging the lien upon sale or transfer of ownership. Property owners are given written notice that the lien is on file and can contact the counsel when anticipating the sale of their property.
3. A third grantee prepares discharge notices in advance (at the time that the contract between the owner and the grantee is finalized). These discharge notices are filed by expiration date (month and year). Upon expiration, the discharge notice is signed by the CEO and sent to the Registry of Deeds. This discharge process will be taken over by the Town Clerk's Office when the housing rehabilitation program ends. These systems not only facilitate the lien discharge process, but they also help prevent future problems with the assisted homeowner.

I. SWEAT EQUITY

Self-help or sweat-equity projects are those in which the homeowner undertakes some or all of the tasks required to rehabilitate his/her property. These projects involve an owner contributing his/her labor with MSCP resources used for the purchase of materials.

Given the complexity of administering self-help projects the EOCD generally discourages their use. However, there are instances where self-help can be an appropriate alternative to the traditional contracting process. A grantee should notify EOCD of its intent to incorporate a self-help component in their housing rehabilitation program and are encouraged submit guidelines which clearly outline the procedures to be followed.

Ineligible expenses of self-help projects include: (1) the labor of the owner and, (2) purchase of hand or power tools.

There must be a contractual agreement between the grantee and owner concerning performance, time, compliance and documentation of expenditures. The agreement should incorporate materials cost estimate and a work write-up. The cost estimates for the materials should be placed in the case file. There can be no advance payments, payments shall be made only for materials after installation and completed (as determined during inspection). Inspection reports should be in file.

J. Program Design Considerations

When developing guidelines for self-help projects grantees should consider the following:

Do estimated rehabilitation costs exceed the maximum level of assistance offered through your program?

Are the costs associated with rehabilitation beyond the financial capability of the owner?

Does the community development staff have additional time to provide oversight and technical assistance to the owner? These projects usually require more oversight by program staff than projects undertaken by licensed contractors.

Does the property owner possess the necessary qualifications and the time to perform the rehabilitation work?

Is the nature of the project such that the owner can perform his/her work without interfering with other contractors who may be involved?

K. Lead Paint

Citations: MSCP Grant Agreement, Section 4.18
MGL Chapter 2, State Sanitary Code
MGL 111, ss. 190-199
Title IV of the Lead Paint Poisoning Prevention Act (42 USC 4831)
HUD CDBG Regulations, 24 CFR 35

1. **Guidelines:** The Massachusetts Department of Public Health (DPH) is responsible for implementing the state's lead paint program. Through the Childhood Lead Paint Poisoning Prevention Program (CLPPP), the department oversees the "prevention, screening, diagnosis, and treatment of lead poisoning, including the elimination of the sources..."

Effective April 14, 1988, the Commonwealth of Massachusetts implemented changes in MGL 111, residential abatement standards. Key components of these changes include:

- a. Abatement methods - Exterior and interior paint shall be removed according to regulations issued by CLPPP after consultation with the Department of Environmental Quality Engineering and the Massachusetts Historical Commission, specifying acceptable methods and prescribing shrouding or other containment methods. Grantees are to be aware that all lead paint surfaces must be removed up to five (5) feet.
No pregnant women and children under the age of six shall occupy a dwelling undergoing deleading. EOCD encourages that all household members not occupy the unit during rehabilitation. Temporary relocation during deleading is considered an eligible CDBG activity and we encourage grantees to utilize such funds where appropriate.
- b. The Department of Public Health has established regulations for the licensing of lead inspectors. Working in tandem with the DPH, EOCD encourages grantees to identify lead paint hazards and to remove these hazards in housing units rehabilitated with MSCP funds. Specifically, EOCD requires that lead paint inspections be conducted in every unit in which a child under six (6) years of age resides and built prior to 1978 to determine if a hazard exists or in units where there is evidence of chipped, peeling, or flaking paint. Documentation that this inspection was conducted must be maintained in the case file. When a hazardous condition is identified, it must be corrected. MSCP funds may be used to remove the hazard, or to assist the property owner in remedying the situation. Inspections for and removal of lead paint hazards in other units is not required although grantees must comply with all state and federal laws and are encouraged to address lead paint issues whenever hazardous conditions are suspected.

Some grantees have expressed concern over the high cost of lead paint removal and related temporary relocation costs. The added expenses may reduce the total number of units which a grantee anticipated improving or make a project appear unreasonably expensive within the program's guidelines. The issue of de-leading units is of such a priority to EOCD that modifications of per-unit rehabilitation cost limits

or revisions of goals will be readily approved when warranted. Requests for this modification should be submitted, in writing, to EOCD.

2. Grantee Responsibilities

The local health department or code enforcement agency is ultimately responsible for identifying lead paint hazards and enforcing compliance with state law. Section 460.710 of the State Sanitary Code, Chapter 2, lists the circumstances under which the local agency is required to perform these inspections. A copy of Section 460.710 is included at the end of this Section and should be referred to by each grantee. The local agency should be notified whenever a hazardous condition is identified. Since some localities do not have the expertise or technology to perform inspections themselves we have included a list of deleading agencies who are registered but not yet licensed.

If you encounter a very high incidence of lead paint in your community or if you need more details on compliance with the laws and regulations regarding lead paint, please contact the MSCP office.

3. Common Problems:

- o No evidence of lead paint inspections being conducted when required by law.
- o No evidence that local enforcement agency is notified of test results.

Please contact the MSCP office or the Department of Public Health for information and assistance. The address for DPH is:

Massachusetts Department of Public Health
305 South Street
Jamaica Plain, MA 02130
(617) 522-3700
Attn: Lead Paint Program

L. ASBESTOS

Citations: MGL Chapter 149, Section 6 (453 CMR 6.00 Asbestos Control)
MGL Chapter 30A, Section 6 and MGL Chapter 233
Section 75 Article II, State Sanitary Code (410.353)

Guidelines:

The Massachusetts Department of Labor and Industries is responsible for implementing the Commonwealth's asbestos control regulations. The regulations govern the removal, containment and encapsulation of asbestos. The Asbestos Control Technical Services Department oversees the use, handling, removal, disposal, licensing and workplace standards in order to protect workers, occupants and users of dwellings from which asbestos is removed, contained or encapsulated. Working in tandem with the Department of Labor and Industries, EOCD encourages grantees to identify asbestos hazards and to correct the hazards in dwellings rehabilitated with MSCP funds.

Specifically, EOCD requires that, in structures proposed for rehabilitation with MSCP funds, local

inspections include, as part of their review, a check for the presence of asbestos or material containing asbestos.

Documentation that inspections included this check must be maintained in each case file. If asbestos is identified, MSCP funds may be used to assist the property owner to remedy the situation. If compliance with this regulation increases the total rehabilitation cost, EOCD will approve modifications of per-unit rehabilitation cost limits or revisions of unit goals when warranted. Requests for this modification should be submitted, in writing, to EOCD.

The local health department or code enforcement agency is ultimately responsible for identifying asbestos hazards and enforcing compliance with the state regulation. Section 410.353 of the State Sanitary Code, Article II, lists the circumstances under which the local agency is required to enforce these regulations and perform inspections. A copy of Section 410.353 is included at the end of this section.

Should asbestos be identified during an inspection of the structure, grantees should contact the Asbestos Control Technical Services Division of the Department of Labor and Industries , (617) 727-1932.

If you encounter a very high incidence of asbestos in your community, or if you need more details on compliance with the laws and regulations regarding asbestos, please contact the MSCP office.

6.2 Commercial Improvements

Commercial Improvements are generally signs and facades for local businesses. The purpose of these renovations is to create visual transformations of downtown and local commercial areas. Funding assistance to the grantee will only be considered if the target area is within the grantee's commercial Area Revitalization District (CARD). If a CARD does not exist, the applicant must demonstrate that the area is a commercial district, as opposed to a "strip" development.

Evidence should be presented to document that there is current and continuing disinvestment in the area. This can be done by describing the commercial vacancy rate, the loss of commercial sales in the area, frequency of commercial turnover, or any other indicator of disinvestment. Evidence that there is: (1) a demonstrated interest that businesses will seek to participate in the commercial program as described in this application and, (2) a local business group such as a merchants association has participated in needs identification and program design, and that such an entity supports this activity.

When designing or implementing an economic development activity such as a commercial improvements program, the grantee must take into consideration the comparative health of the local business and banking sectors so that the proposed activities can complement available resources.

A. Eligible Activities:

1. Exterior renovations of facades or storefronts, including replacement of signs
2. Relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate,
3. Acquisition of real property,
4. Code enforcement in deteriorated or deteriorating areas in which such enforcement together with public improvements and services to be provided, may be expected to arrest the decline of the area,
5. Rehabilitation of publicly- or privately-owned commercial or industrial buildings (except that rehabilitation of buildings owned by for-profit businesses is limited to building exterior and the correction of code violations.

NOTE: Interior improvements are considered economic development and require substantial documentation of the benefit to low and moderate income persons, public benefit and the necessary and appropriate use of federal dollars. These activities are reviewed in the section pertaining to Economic Development in this manual.

6. Facade Easements: Many grantees choose to purchase facade easements from business owners who agree to improve the facade of their building. In exchange, the business owner relinquishes the right to make any additional facade changes for a pre-determined period of time.

Historically, this method of assistance has been used by building owners and grantees as a way to improve the image of the commercial center without the imposition of Davis-Bacon wage rates. Although HUD and the Department of Labor have not questioned the applicability of the Davis-Bacon Act to this type of project and therefore, we too have not, grantees should be aware that a firm decision has never been rendered. A court challenge regarding this issue is always possible.

It is recommended that grantees using this incentive inform participant business owners that, should a court challenge result in a decision supporting the imposition of Davis-Bacon wage requirements, business owners could be held liable for past wages on these projects. A further recommendation is that grantees discuss using facade easements with their program representative.

Regardless of the approach, grantees must maintain complete project files documenting need, work write-ups, estimates and bid documents, inspection reports, invoices, etc.

B. Documentation of Compliance With A National Objective

There are two national objectives that may apply to commercial improvement projects: (1) elimination of slums and blight, and (2) area-wide benefit to low and moderate income persons.

1. A certification from the Chief Elected Official (CEO) or authorized individual that the area is in disrepair or that there is a pattern of recognizable disinvestment in the area (e.g. several boarded up buildings, high vacancy rates, etc.). In some instances, grantees may consider slums and blight on a spot basis. Again, documentation must be presented.
2. If a program activity occurs within a target area that has a population of 51% low and moderate income households and the users are from within the target area, this may be an objective which can be substantiated. This requires significant documentation on the part of the grantee and business owners. Specifically, it has to be shown that at least 51% of the users are either from the immediate target area or are low and moderate income persons. This can be done through a survey of the customers and an analysis of their incomes and whether or not they live in the neighborhood.

6.3 Economic Development

MSCP supports economic development activities as part of an overall community development strategy. There is a distinction made between commercial rehabilitation and business development activities. The commercial rehabilitation activities are limited to external structural improvements and/or modifications. The type of economic development which is described in this section is related to business development. The support and encouragement using MSCP federal funds growth and/or stability in the local business community of the grantee. In this case, it is critical that the grantee research and evaluate the financial and business environment in which these activities are going to occur.

Examples of previously funded business development activities are business planning endeavors to promote revitalization of the business sector or a revolving loan fund to provide direct loans or interest reduction loans to small businesses so that they may continue to employ or create employment for low and moderate income persons in the area.

A. Eligible Activities:

Acquisition, construction, reconstruction, rehabilitation, which include: installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the grantee or public or private nonprofit sub-grantees.

The provision of assistance to a private for-profit business, including, but not limited to grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is necessary or appropriate to carry out an economic development project, excluding those described as ineligible in 570.207 (a). In order to ensure that any such assistance does not unduly enrich the for-profit business, the grantee shall conduct an analysis to determine that the amount of any financial assistance to be provided is not excessive, taking into account the actual needs of the business in making the project financially feasible and the extent of public benefit expected to be derived from the economic development project. The requirement for making such a determination applies whether the business is to receive assistance from the grantee or through a subgrantee.

B. Documentation to Meet the National Objective:

The national objective applicable to these business development activities is low and moderate income benefit. The benefit to low and moderate income persons can occur through these activities in a number of ways. Most often, it occurs through the creation or retention of jobs in which low and moderate income persons are employed or to be employed. Two others which are generally overlooked are limited-clientele and area benefits. Documenting the actual benefits of these business development activities to low and moderate income persons requires a well-organized tracking and monitoring system.

1. Job creation and retention

To meet this objective, existing or positions created as a resulted of the MSCP funding will result in at least 51 percent of the jobs are for low and moderate income persons.

- a. **Job Retention:** Jobs should be considered retained only when it can be clearly demonstrated that, without CDBG assistance, the jobs would be lost. Retained jobs actually held by low and moderate income persons, considering their family income and size, as jobs available to low and moderate income persons. Retained jobs considered as involving the employment of low and moderate income persons shall be limited to the total of those jobs known to be held by low and moderate income persons at the time the assistance was provided together with any other jobs that can reasonably be expected to become available through turnover to low and moderate income persons in a period of two years thereafter, using the same standards as for newly created jobs.

When making judgements about whether an individual is low and moderate income both the family size and income of the entire family must be considered. This is because a low and moderate income person is defined as a member of a low and moderate income family.

- b. **Job Creation:** Most economic development activities will be designed to meet the national objective of principally benefitting persons of low or moderate income through the provision of employment where at least 51 percent of the jobs are for low and moderate income persons. An activity is considered to qualify under this provision where the activity involves jobs at least 51 percent of which are either (1) actually taken (or retained) by such persons, or (2) can be considered to be available to them because:
- i. Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business nevertheless agrees to hire unqualified persons and provide them training: and
 - ii. the local government or assisted business take actions that would ensure that low and moderate income persons receive first consideration for filling such jobs.

In order for business to demonstrate it considered a low and moderate income person, the business must either agree to: (1) obtain and keep on file for verification the necessary information about the person to determine low and moderate income status; or (2) agree to consider referrals. The referrals may be from the locality or a state, county or local employment agency that agrees to refer individuals who they determine to be a low and moderate income person based on HUD's income levels and considering both family income and size.

Written verification by a person of his or her family income and size to establish low and moderate income status is an acceptable method. The certification may simply state that the person's family income is below that required to be low and moderate income in that area. The forms for such certification must include a statement that the information is subject to verification.

2. **Limited-Clientele**

An activity which benefits a limited clientele, at least 51 percent of whom are low and moderate income persons; benefit a clientele who are generally presumed to be principally low and moderate income persons (the following groups are considered by HUD to meet this criterion: abused children, battered spouses, elderly persons, handicapped persons, homeless persons,

illiterate persons and migrant farm workers; be of such a nature and be in such location that it may be concluded that the activity's clientele will primarily be low and moderate income persons.

- a. **Limited Clientele:** The national objective could be met through a business development activity if funds were provided to a business which provides goods, services or products to any of the classes of persons automatically considered under this definition or at least 51% of its clients were low and moderate income persons. For example, a company that manufactures prosthetics for handicapped persons or an employment agency which finds placements for homeless persons and other low and moderate income persons.
- b. **Area Benefit Activities:** At least 51% of the residents of a target area are low and moderate income persons, and the activity undertaken will principally benefit these residents.

If a program activity occurs within a target area that has a population of 51 percent low and moderate income households, but the users of this activity include households from outside the target area, then this national objective may not be appropriate. The mere location of a program activity within a target area is not sufficient to document low and moderate income benefit. The users of the program activity must be 51 percent or more low and moderate income. This objective has to be able to be documented. For example, the services provided are either to a group recognized as low and moderate income or were located in an area, such as a distressed area within the community and there was documentation to substantiate that in fact the area was predominantly low and moderate income.

3. Monitoring Requirements

As with all MSCP funded programs, the grantee as well as any subcontractors are required to monitor activities engaged in to ensure compliance with federal and state regulations, national objective and approved program components.

For projects in which job creation/retention is the national objective, the grantee must monitor for 2 years to ensure that in fact those jobs are created. Also, an analysis of attrition, promotion and turnover rate should be completed to ascertain whether or not there are certain policies in place which represent obstacles to employment or ongoing employment of low and moderate income persons.

C. Financial Analysis

Grantee-administered funds to for-profit businesses: When funds are provided directly to a for-profit business by the grantee, a financial analysis of necessary or appropriate is required. Grantee files must contain documentation of the financial analysis of the business' need for assistance as well as public benefit factors that were considered in making its determination that the assistance is necessary or appropriate. In terms of public benefits, the types of factors considered might include: the number and type of jobs to be made available, in relation to the needs of low and moderate income and other persons who are likely to be employed or retained for employment, the other development which is likely to be stimulated in the area by the activity, increases to the tax base including property, sales and income taxes in the area, or increases in needed services which result from the activity. This list is not exclusive, but

in any case the state is expected to provide clear documentation on how the decision was reached.

Documentation should consist of a financial analysis of the business entities' needs using the following steps.

1. Determining Project Type. There are two basic types of projects: Real Estate Projects and User Projects. Determining the project type is important since each is evaluated differently.
 - a. In a Real Estate project, the private developer buys/builds/renovates a piece of real property with the goal of leasing that property to another party for a rent in excess of expenses and debt service. Typical projects of this type are hotels, office buildings and shopping centers,
 - b. In a User Project, the entity seeking the assistance is also the owner/lessee and the occupant/user of the property. Typically, User Projects involve the construction of, or an addition to, an industrial or commercial facility, the procurement of equipment or the use of working capital.
 - c. There may also be hybrid projects. An example is the manufacturing company which creates a subsidiary or independent entity to build and own a facility which the manufacturing company leases. In such situations the analysis must discover which entity/transaction is in need of CDBG assistance, for, as detailed below, User and Real Estate projects should be evaluated by different criteria.
2. Evaluate the proposed project costs (the uses of funds to complete the project). Cross-check costs with appropriate industry standards. The goal is to conclude that all costs are reasonable. Cross-checking should include hard and soft costs, particularly developer's fees.
3. Verify and Maximize Private Sources of Funding (the sources of funds necessary to complete the project). Both private debt and equity must be verified. Verification means ascertaining that: the source of funds is committed; that the terms and conditions of the committed funds are known; and the source has the capacity to deliver. All private sources should be maximized for the given project. No CDBG funds should substitute for available private funds.
4. Determine Reason for the Need for CDBG Assistance to Complete the Project. There are three general, justifiable reasons for CDBG assistance to both Real Estate and User Projects.
 - i. Financing Gap. The private sector can maximally raise only a portion of the debt and equity funds necessary to complete the project. A gap between sources and uses exists and CDBG fills the gap.

- ii. Rate of Return (ROR). The private sector can raise sufficient debt and equity to complete the project, but the returns to the developer/user are inadequate to motivate an "economic person" to proceed with the project. That is, project risks outweigh the rewards. Evaluation of the ROR argument is made differently for Real Estate and User Projects.

For Real Estate Projects, the ROR is usually measured by one or more of the following:

Equity Return Rate = annual cash flow (income after debt expenses and service) divided by cash equity. Also referred to as: cash-on-cash return, return on equity (ROE), or Equity Dividend Rate (EDR).

Going-In Capitalization Rate = Annual Net Operating Income divided by present value of project income or purchase price of the project.

Internal Rate of Return (IRR) = a time weighted return equalling present value of future receipts with the cost of the project.

For User Projects, the measurement of ROR is more varied due to the tremendous difference among industries with respect to accounting and historical returns. Typically, User Project profits can be measure by operating ratios such as:

Profit before taxes/tangible net worth (expressed as a percent)
Profit before Taxes/Total Assets (expressed as a percent)
Sales/Net Fixed Assets
Sales/Total Assets

5. Size the CDBG Assistance. Based on the type and extent of the need as detailed in Step d, determine the minimum amount of CDBG funds necessary to stimulate the private investment. This analysis will generally require a 5 to 10 year proforma for the proposed project. Ideally, the private sector applicant for CDBG funds will submit one proforma with 100 percent private financing and a second proforma with CDBG funding.
6. Price the CDBG Loan. If the CDBG subsidy is to be a loan to a private entity, the debt service payments should balance the maximum return to the public lender with the economic health of the project. Returns to the developer in excess of industry averages should be avoided, but too high an interest rate for the CDBG assistance may weaken the project. The most direct pricing procedure is to work backwards from the proforma's cash flow dollars available to service the CDBG loan (after project expenses, private loan debt service, and an appropriate return to the private entity) to an interest rate and term that equates to the available cash flow.

6.4 Public Facilities

The funding assistance for public facilities may involve the acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, carried out by the grantee or other public or private non-profit entities.

A. Eligible Activities:

Infrastructure projects ideally should not be "freestanding", but should be part of a more comprehensive and integrated approach to the revitalization of the applicant's target area and community development needs.

Infrastructure projects that are not part of a more comprehensive strategy, the infrastructure project should address a "critical need", as defined as a problem that effects the health, safety, or public welfare community and has been identified within the last 18 months.

Cost estimates for the proposed public facilities or infrastructure should be current, detailed, and clearly documented.

Proposed project should not be eligible to be funded from another funding source (e.g., Community Development Action Grant Program, Chapter 557 Economic Benefits Sewer Program, PWED,). the project should be unable to be funded (or funded solely) by the grantee from local funds or assessments due to a lack of fiscal capacity or other factors. If it is, the applicant should detail the reasons why this money was not sought before MSCP funds were requested.

B. Labor Standards; Public Facilities Projects and the applicability of Labor Standards

It is important to determine the applicability of Federal Labor Standards Provisions at the onset of a project. This will help to ensure compliance, and allow effective planning and project implementation to progress efficiently. Questions regarding applicability of labor standards and prevailing wage requirements should be referred to an MSCP Representative. Generally, wage situations should be reviewed on a case-by-case basis to determine which laws apply in each instance.

Most construction projects, including public facilities, which are funded, in whole or in part, with federal funds must comply with Federal Labor Standards Provisions. The three primary laws involved are the Davis-Bacon Act; the Copeland "Anti-Kickback" Act; and the Contract Work Hours and Safety Standards Act. A brief summary of these related acts follows:

1. Davis-Bacon Act: Statutory provisions of this act (see HUD Handbook 1344.1) require that federal prevailing wages must be paid to workers involved in construction contracts which exceed \$2,000. This provision would apply regardless of the amount of MSCP funding assistance. The rehabilitation of residential property designed for less than eight (8) units is exempt from prevailing wage rates.

2. Copeland "Anti-Kickback" Act: This act requires that all workers be paid weekly, and any deductions from their pay be permissible according to a list of eligible deductions. Contractors must keep weekly payrolls and submit these payrolls with compliance statements to the grantee for review. (See Appendix 3 for permissible payroll deductions.)
3. Contract Work House Act: Recently amended, this act requires that workers receive time and one half compensation after they have worked 40 hours in one week. This is required for all contracts in excess of \$2,000.
4. Davis-Bacon Exemptions There are certain exceptions to the Davis-Bacon Act. These regulations do not apply in the following instances.
 - a. Construction contracts at or below \$2,000. It should be noted that arbitrarily separating a project into contracts of less than \$2,000 in order to circumvent these provisions is not permitted.
 - b. Force Account Work. Force account work is construction, alterations, repair or demolition or work carried-out by city or county employees, and temporary public employees hired to work on a specific project. This exemption remains in effect even if MSCP funds are used to pay local worker's salaries.

Refer to the MSCP Construction Manual for additional information regarding labor standards.

C. Documentation to Meet the National Objective

For purposes of documenting the national objective to be met by these activities, grantees may provide the area-wide census tracts of the affected target areas which show that the population is more than 51% low and moderate income persons. If the census tracts do not agree with this information, a survey must be conducted by the grantee to support the claim of benefit to low and moderate income persons.

If the national objective to be claimed is elimination of slums and blight, any public facility project that involves underground improvement (e.g., sewer or water pipes), does not meet this objective.

For purposes of claiming a national objective of meeting critical community needs, the grantee should note that this national objective should be selected only if the other two do not apply and all of the following conditions are met:

1. the existing condition poses a serious and imminent threat to the health or welfare of the community;
2. the condition must have occurred, or have been evidenced, within the past 18 months;
3. the condition is not the result of local neglect over time;
4. there cannot be any other financial resources available to meet these needs; and
5. the proposed activity will be sufficient to correct or mitigate the threat.

6.5 Public/Social Services Activities

CDBG eligible activities involve the provision of public services (including labor, supplies and materials) which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, or recreational needs. The activities can not amount to more than 15% of the grant award.¹

A. Eligible Activities: Public/social services activities eligible under 24 CFR 570.201(e):

1. include a wide range of programs such as childcare, employment training, literacy classes, drug and alcohol counseling, fair housing counseling, elder meals, crime prevention, fuel assistance, and services to pregnant and parenting teens,
2. must be either a new service or a quantifiable increase in the existing level of service,
3. are restricted to non-construction activities such as childcare subsidies, start-up equipment for family-care providers, purchase of an elder van, and teacher salaries for vocational training courses,
4. can be used for direct services, staff salaries, operating expenses, transportation, and materials and supplies.

Please take note of the following qualifications:

- cannot exceed 15% of the total funds awarded under the MSCP grant,
- Funding for the "bricks and mortar" development of public/social services such as childcare centers, senior centers, homeless shelters, and renovations to buildings for handicap accessibility are considered public facilities activities and therefore, are not subject to the 15% ceiling.
- Public/ social services activities that involve direct income payments such as rent and/or utility payments are ineligible for MSCP funding when carried out by a municipality but are eligible when carried out by a subgrantee (i.e., local development corporation, local housing authority or nonprofit service agency or organization).
- Local human/social services department staff are considered municipal employees. MSCP funding for their salaries are included in the budget for General Administration and not in the public/social services budget. The General Administration budget is subject to an 18% ceiling. On the other hand, staff salaries for sub-grantees providing public/social services are calculated as part of the public/social services budget.

¹ In the proposed regulations covering the implementation of state-run Community Development Bloc Grant Programs, this may change to 15% of the total allocation received by the state rather than the grantee's award. Grantees will be notified when this takes into effect.

- Requests for funding for public/social services projects can be submitted only as part of a comprehensive application. A single purpose application comprised solely of a public/social services component is ineligible for funding.
- Public/social services programs operated by municipal departments other than the community development office (e.g., Council on Aging, Human/Social Services Department, Board of Health) require that you execute an intergovernmental agreement or memoranda of understanding between your office and each appropriate municipal department. Activities administered by sub-grantees require the execution of professional services contracts and all MSCP procurement regulations apply. The activities should be directed at providing services and assistance to disadvantaged groups or other individuals in need (particularly the handicapped, the elderly, minorities, linguistic minority new-comers, and other low or fixed-income households) in order that such individuals can attain a greater degree of self-sufficiency, and can take greater advantage of the opportunities available to improve the qualities

B. Documentation of Meeting A National Objective

The national objective for public/social services activities is generally considered to be benefit to low and moderate income persons. The national objective can be met in either of two ways:

1. The beneficiaries of the assisted activity are at least 51% low and moderate income persons. For example, at least 51% of the children who ride the MSCP-purchased van for the YMCA after school childcare program and at least 51% of participants in the MSCP-funded substance abuse counseling program must be from low and moderate income families.
2. The assisted activity has a limited clientele such that the beneficiaries are generally presumed to be principally low and moderate income persons. (a) The following groups are presumed by HUD to meet this criterion: abused children, battered spouses, migrant farm workers, and elderly, handicapped, homeless, and illiterate persons. (b) The assisted activity may have income eligibility requirements which limit the activity exclusively to low and moderate income persons. (c) The assisted activity is of such a nature and in such a location that it can be concluded that the activity's clientele will be primarily low and moderate income persons.

Program files, whether maintained by the community development office or by a subgrantee, must contain sufficient documentation to demonstrate that the assisted public/social services activity is in compliance with the national objective as well as with all other federal and state regulations and provisions. Self-declaration of household income by activity participants/clients is sufficient verification to demonstrate income eligibility.

6.6 Acquisition and Demolition

The acquisition, in whole or in part, by the grantee, or other public or private non-profit entity, by purchase, long-term lease, donation, or otherwise of real property, for any public purpose, subject to the limitations in the 24CFR570.207 (regarding ineligible activities unless carried out by specific eligible sub-grantees).

A. Eligible Activities

1. **Acquisition of Real Property** Following are the procedures to be followed when using CDBG funds to acquire real property.

If the grantee or its sub-grantees, public or private, anticipate the need to acquire property using CDBG funds, the provisions contained in federal and state regulations must be followed. These provisions are designed to ensure that the original property owner is offered a fair price for the property and that the acquisition process allows for fair negotiations.

All procedures under the Uniform Relocation Act (URA) apply to the acquisition of real property for a federal program/project and to programs/projects where there is federal financial assistance in any part of the program/project costs **except when:**

- a. the property is donated and the owner releases the purchaser from appraisal obligations;
- b. the transaction is uncomplicated and the Fair Market Value of the property is estimated at less than \$2,500;
- c. no specific site or property needs to be acquired and the property will not be acquired should negotiations fail to result in an amicable agreement;
- d. the purchaser lacks the authority to acquire the property by eminent domain or through condemnation.

B. Documentation To Meet The National Objective

C. Procedures/Guidelines

In all instances, other than those cited above, the following steps must be taken and the process well documented in order to comply with federal regulations.

1. **Determine the Need to Acquire Property**

When a project involves the acquisition of property (for public or private use), including easements and rights-of-way (for street widening, utility installation, sidewalk construction, etc.), the grantee may contact property owners to determine which parcels should be acquired. The grantee must not involve appraisers or indicate its "intent" to purchase at this initial stage. Either action will trigger the "initiation of negotiations" process with consequences for later relocation payments.

2. Notify the Owner

Once it has been determined that there is a need to acquire a specific property, the grantee must notify the property owner and tenants in writing of (a) its interest in acquiring the specific property and (b) basic protection including its obligation to secure an appraisal and provide relocation assistance for displaced tenants and owner-occupants.

3. Appraise the Property

- a. Select an independent appraiser on the basis of free and open competition who has no interest in the property and is not related to or in business with anyone having an interest in the property.
- b. The property owner must be invited in writing to accompany the appraiser on the inspection of the property.
- c. The appraiser will inspect the property and state her/his professional opinion of its current Fair Market Value in an appraisal report. The report should include a determination of the Fair Market Value which will be used to establish **just compensation**. The amount of just compensation set for the property should not be less than the appraised Fair Market Value. Just compensation should not include relocation assistance needs.
- d. Two or more appraisals of the property are recommended. After the appraisals are completed, a review appraiser will check to ensure that the estimates are fair and that work conforms to professional appraisal standards.

4. Negotiate Settlement

- a. A written purchase offer of just compensation for the property must be made to the owner before initiating negotiations. The purchase offer should include a summary statement of the basis for the offer.
- b. Reasonable efforts should be made to acquire the property expeditiously by negotiation. If a change in the purchase offer does occur, the owner must be notified in writing of the new offer of just compensation.
- c. A Statement of Settlement Costs specifying the costs to be paid by each party to the transaction must be given to the property owner.
- d. If a voluntary agreement cannot be reached, the grantee may file suit in court to acquire the property through eminent domain.

5. Complete Settlement

- a. Payment must be made before the grantee can take possession of the property. Payment should be inclusive of all costs incidental to the acquisition such as recording fees, mortgage repayment penalties, and prepaid property taxes.

- b. A mutually agreeable date for the move should be set. Unless there is an urgent need (e.g., health or safety emergency) no one can be required to move without at least 120 days advance written notice (Ch. 79A). Furthermore, an occupant of residential property cannot be required to move until a comparable replacement dwelling is made available.

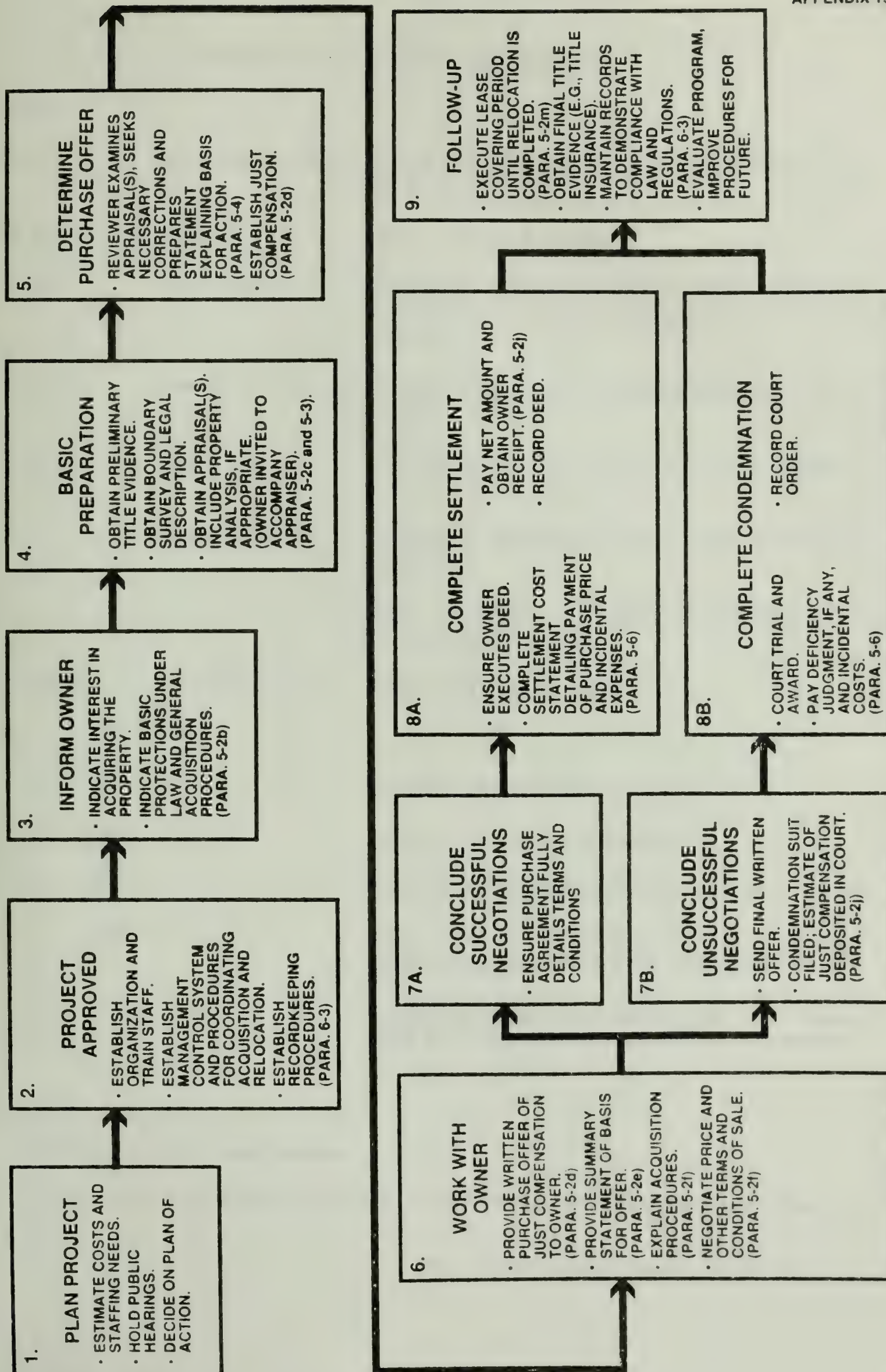
6. Decision Not to Acquire

If a decision is made not to acquire the property, the owner and tenants must be notified in writing.

D. Recordkeeping Requirements:

- 1. Identification of property and property owner(s).
- 2. Evidence that owner was informed on a timely basis about acquisition procedures and her/his rights.
- 3. Evidence that owner was invited to accompany appraiser on property inspection.
- 4. Copy of each appraisal report, including review appraisal report.
- 5. Copy of written purchase offer and summary statement of the basis for determining just compensation and evidence that it was received by owner.
- 6. Copy of purchase contract and documents conveying property.
- 7. Copy of settlement statement and evidence that owner received net proceeds due from sale.
- 8. Copy of any appeal or complaint filed and copy of the grantee's response including the basis for its determination.

Acquisition Process Under the URA*



* UNIFORM RELOCATION ACT RULES EFFECTIVE 4-2-89 (HUD HANDBOOK 1378)

CHAPTER 7.0 LIST OF REGULATIONS

Regulations:

24 CFR ¹ 570	December 24, 1990	State Proposed Regulations on Community Development Block Grant (CDBG)
24 CFR 570	August 8, 1990	Escrow Account Regulations
24 CFR 570	July 18, 1990	Community Development Block Grants; Relocation, Displacement, Acquisition, and Replacement of Housing, Final Rule
24 CFR Part 14 <u>Et. Al</u>	January 23, 1989	Implementation of the Fair Housing Amendments Act of 1988
24 CFR Part 8	June 2, 1988	Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities
24 CFR 570	September 6, 1988	Community Development Block Grant Entitlement Regulations
		Title I - Housing and Community Development Act of 1974 as amended in 1987
36 CFR Part 800	September 2, 1986	Protecting Historic Properties

Notices:

CPD ²	90-44	Rehabilitating Properties with Asbestos
CPD	90-38	Settling Owner-Contractor Disputes
CPD	90-33	Improving Rehabilitation Construction Quality
CPD	90-05	Claim Forms for Relocation Payments Under the Uniform Relocation Act of 1970, as amended
CPD	89-42	Relocation/Displacement Recordkeeping Requirements Under the Uniform Relocation Act of 1970, as amended

¹ CFR refers to Code of Federal Regulations

² CPD refers to the US Department of Housing and Urban Development, Office of Community Planning and Development.

CPD	89-23	Changes to the Final Government-wide Rule Implementing the Uniform Relocation Act of 1970, as amended
-----	-------	---

CPD	89-18	Determining Benefit to Low and Moderate Income Persons Through Jobs in the State CDBG Program
-----	-------	---

Memoranda

February 16, 1990	1990 Income Limits for Lower Income and Very Low Income Families Under the Housing Act of 1937
-------------------	--

July 11, 1988	Survey Methodology to Determine Low and Moderate Income Status of CDBG Service Areas
---------------	--

May 19, 1987	Guidelines for Review of Economic Development Activities in the State CDBG Program
--------------	--

Miscellaneous

July, 1985	Department of Revenue Pension Charges to Federal Grants
------------	---

CHAPTER 8.0 Program Implementation Memoranda

SUBJECT	DATE
Update on Escrow Account Regulations	October 16, 1990
Labor Standards/Apprentice Registration	October 16, 1990
Fair Market Rents (FMRs)	October 21, 1990
Revised Regulation - Use of Escrow Accounts for Rehabilitation of Privately-Owned Residential Property	August 28, 1990
Section 8 Income Limits	January 2, 1990
Review of Quarterly Reports	March 29, 1989
Construction Contract Boiler Plate	March 8, 1988
Procurement of/Contracting with Management Services Consultants	January 16, 1987

EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT

M E M O R A N D U M



Michael S. Dukakis, Governor
Amy S. Anthony, Secretary

TO: All MSCP Grantees, Sub-grantees and Administering Agencies
FROM: Toni Coyne Hall, Deputy Assistant Secretary *Toni Coyne Hall*
DATE: October 16, 1990
RE: Update on Escrow Account Regulations (refer to 8/28/90 memo)

MSCP has received numerous comments regarding the Escrow Account Regulations issued by HUD. We concur with you in regard to the 10 day disbursement period for funds in escrow being unworkable. We have requested our HUD regional office to provide a policy directive to the state. As a result of that consultation, HUD has determined that a 30 day disbursement period would be in keeping with a "reasonable additional period" allowed for receipt of funds from the state and meet the intent of these new regulations.

Therefore, MSCP grantees must disburse funds from the escrow account 30 days from the date of deposit. This 30-day time period is based on the 21-day state disbursement cycle and the estimated 7-10 day local disbursement cycle.

Grantees may also consider revising their drawdown schedule to coincide with this time requirement. For example, if you have been drawing funds once a month, you may want to consider drawing funds bi-monthly or weekly, depending on the level of activity in your rehabilitation program.

Another concern expressed by many grantees was the administrative burden of returning interest earned in escrow accounts to the U.S. Treasury. Grantees can avoid doing so by using program income to establish escrow accounts since this use doesn't create additional demand on the Treasury. If a program income account is not used to "up-front" this escrow account, then refer to the memo of 8/28/90 for instructions on how to return interest.

This memo updates my previous memorandum of August 28, 1990. I have attached an updated chart on the implications of the federal regulations. Please insert this into your MSCP Financial Management Manual--Chapter 6.

encl.
/rwk

CFR 570.511 ESCROW ACCOUNT REGULATION
Effective 9/7/90

MSCP ESCROW ACCOUNT POLICY

<p>o Loans & grants for private property rehab (housing/commercial). No unit limitation nor limitation on small commercial rehab projects</p>	<p>* Loans and grants for "residential" rehab (1-4 units); commercial store front may be included if in same structure as residential units.</p>
<p>o Contract contained no stipulation identifying payments via an escrow account.</p>	<p>* Contract between property owner/contractors specifies payments via an escrow account maintained by the Town.</p>
<p>o Deposit to escrow made after execution of a property owner/contractor contract.</p>	<p>o Deposit to escrow made after execution of a property owner/contractor contract.</p>
<p>o Deposit limited to amount specified in property owner/contractor contract. Funds may be held up to 180 days from the date of deposit.</p>	<p>* Amount of deposit limited to amount expected to be disbursed within 30 working days from date of deposit.</p>
<p>o Program funds may be retained in one central bank account or individual accounts as long as accounting records provide a sufficient audit trail.</p>	<p>* One interest-earning bank account to be established. Individual accounts for each loan/grant is prohibited.</p>
<p>o Interest earned must either be used for payments to contractors or treated as program income.</p>	<p>* Interest earned (less service charges) shall be remitted to HUD (at least quarterly but no more frequently than monthly. Refer to Chapter 2, MSCP Implementation Manual.) <u>Note:</u> Interest attributable to program income accounts may be retained by recipients.</p>
<p>o Only rehab. costs may be paid from the account.</p>	<p>o Only rehab costs (construction) may be paid from this account.</p>

*Denotes change from MSCP Escrow Account Policy.

EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



Michael S. Dukakis, Governor
Amy S. Anthony, Secretary

MEMORANDUM

To: MSCP Grantees

From: Cliff Risack, Program Representative
Massachusetts Small Cities Program

Date: October 16, 1990

Subject: Labor Standards/Apprentice Registration

CR *OK Tim Crye Hall*

Please review the enclosed HUD memo of (9/20/90) to insure proper registration of Labor Apprentices paid in part or in whole by the MSCP. Contact me at (617) 727-8690 for further assistance.

enclosure



SEP 24 1990

September 20, 1990

MEMORANDUM FOR: HUD Client Agencies, Contractors and
Subcontractors

FROM: *[Signature]* William L. Blomquist, Supervisory Contractor Industrial
Relations Specialist, ISRL

SUBJECT: Evidence of Apprentice Registration

This Office has encountered a recurring problem in the area of proper registration of apprentices employed on HUD assisted construction contracts.

U. S. Department of Labor regulations Section 5.5, Part 5, Subtitle A, 29CFR states in part:

"Apprentices will be permitted to work at less than the predetermined rate when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U. S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau."

The following State apprenticeship agencies have been approved by the U. S. Dept. of Labor, and registration with these agencies is acceptable evidence of apprentice registration on HUD assisted construction contracts:

CONN. Apprentice Training Division, Labor Dept., 200 Folly Brook Blvd., Wethersfield, CT. 06109

MAINE Maine Apprenticeship Council, Bureau of Labor, State Office Bldg., Augusta, ME. 04333

→ MA. Division of Apprenticeship Training, Dept. of Labor & Industries, Saltonstall Bldg., 100 Cambridge St., Boston, MA. 02202

NH. State Apprenticeship Council, Dept. of Labor, State of New Hampshire, 19 Pillsbury St., Concord, NH. 03301

- RI. RI Apprenticeship Council, Dept. of Labor, 220 Elmwood Ave., Providence, RI 02907
- VT. Apprenticeship of Training Division, Dept. of Labor & Industries, 120 State St., Montpelier, VT. 05602

The Wage Appeals Board, U. S. Department of Labor has ruled (Case No. 78-17) that, apprentice cards issued by a State Board of Examiners do not constitute registration in a bona fide apprentice program as required by Department of Labor Regulations.

State Board of Examiners registration most frequently occurs in the plumbing and electrical trade.

Contractors are advised that Board of Examiners registration will not be accepted on HUD assisted projects. Apprentices must be registered with a State apprenticeship agency, previously identified, or they will be entitled to, and must be paid the full mechanic's rate for all work on the federally assisted contract.

MAINE continued

NONMETROPOLITAN COUNTIES

	EFF 1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Washington.....	324	305	405	583	Acton, Alfred, Arundel, Biddeford, Cornish, Dayton
York.....	406	478	604	821	Kennebunk, Kennebunkport, Lebanon, Limerick, Limington
				754	Lyman, Newfield, Parsonsfield, Saco, Sanford, Shepleigh
					Waterboro

MARYLAND

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Baltimore, MD MSA.....	382	465	547	684	Anne Arundel, Baltimore, Carroll, Harford, Howard
				767	Queen Annes, Baltimore

Columbia, MD MSA.....	503	610	716	898	Allegany
Cumberland, MD-VA MSA.....	275	327	383	473	Washington
Hagerstown, MD MSA.....	307	373	440	551	Calvert, Charles, Frederick, Montgomery, Prince George's
Washington, DC-VA MSA.....	511	621	731	914	Cecil
Wilmington, DE-NJ-MD PMSA.....	417	499	594	743	

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
--------------------------	----------	------	------	------

Caroline.....	290	346	409	514	Dorchester.....	297	361	427	534	598
Carroll.....	276	335	395	492	Kent.....	302	369	434	544	609
St Marys.....	421	509	594	744	Somerset.....	297	361	427	534	598
Talbot.....	332	403	475	595	Wicomico.....	354	433	506	635	698
Worcester.....	259	366	427	534						

MASSACHUSETTS

METROPOLITAN STATISTICAL AREAS

Boston, MA PMSA.....	608	739	869	1067	1217
----------------------	-----	-----	-----	------	------

Components of MSA/PMSA within STATE

Bristol county towns of Mansfield, Norton, Raynham
Essex county towns of Lynn, Lynnfield, Nahant, Saugus
Middlesex county towns of Acton, Arlington, Ashland, Ayer
Bedford, Belmont, Boxborough, Burlington, Cambridge
Carlisle, Concord, Everett, Framingham, Groton
Holliston, Hopkinton, Hudson, Lexington, Lincoln
Littleton, Malden, Marlborough, Maynard, Medford
Milton, Needham, Norwood, North Reading, Reading
Shirley, Somerville, Stoneham, Stow, Sudbury
Townsend, Wakefield, Waltham, Watertown, Weyland, Woburn
Wilmington, Winchester, Woburn
Norfolk county towns of Bellingham, Braintree, Brookline
Canton, Cohasset, Dedham, Dover, Foxborough, Franklin
Holliston, Medford, Needham, Norwood, Quincy, Randolph, Sharon, Stoughton
Walpole, Weymouth, Weymouth, Weymouth, Weymouth
Plymouth county towns of Carver, Duxbury, Hanover, Hanson

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING - Effective 10/1/90

MASSACHUSETTS CONTINUED
METROPOLITAN STATISTICAL AREAS

		EFF 1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within state
Brockton, MA MSA.....	472	570	715	867	973	Bristol county towns of Easton, Upton Bristol county towns of Easton, Upton Norfolk county towns of Abington, Bridgewater, Brockton Plymouth county towns of Abington, Bridgewater, Whitman East Bridgewater, Mattapa, West Bridgewater, Whitman Bristol county towns of Fall River, Somerset, Swansea Easton Middlesex county towns of Andover, North Andover, Salisbury Worcester county towns of Ashburnham, Fitchburg Leominster, Lunenburg, Westborough Essex county towns of Amesbury, Andover, Boxford Georgetown, Groveland, Haverhill, Lawrence, Merrimac Methuen, Newbury, Newburyport, North Andover, Salisbury West Newbury Middlesex county towns of Attleboro, Chelmsford, Dracut Dunstable, Lowell, Peppercott, Tyngsborough Westford Bristol county towns of Acushnet, Dartmouth, Fairhaven Freetown, New Bedford Plymouth county towns of Marion, Mattapoisett, Rochester Bristol county towns of Attleboro, North Attleborough Rendolph, Seekonk Norfolk county towns of Plainville Worcester county towns of Blackstone, Millville Berkshire county towns of Chebroke, Dalton, Hinsdale Lanesborough, Lee, Lenox, Pittsfield, Richmond Stockbridge Essex county towns of Beverly, Danvers, Essex, Gloucester Hamilton, Ipswich, Manchester, Marblehead, Middleton Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield Wenham Hampden county towns of Agawam, Chicopee, East Longmeadow Hampden, Holyoke, Longmeadow, Ludlow, Monson, Montgomery Palmer, Russell, Southwick, Springfield, Westfield West Springfield, Wilbraham Hampshire county towns of Belchertown, Easthampton Granby, Huntington, Northampton, Southampton South Hadley Worcester county towns of Auburn, Barre, Boylston Brookfield, Charlton, Clinton, Douglas, Dudley East Brookfield, Grafton, Holden, Leicester, Millbury
Fall River, MA-RI PMSA.....	404	482	579	670	740	
Fitchburg-Leominster, MA MSA.....	443	535	633	791	887	
Lawrence-Haverhill, MA-RI PMSA.....	504	614	736	842	936	
Lowell, MA-RI PMSA.....	485	590	689	835	952	
New Bedford, MA MSA.....	412	463	548	670	740	
Pawtucket-Woonsocket-Attleboro, RI-MA PMSA.....	392	474	559	685	763	
Pittsfield, MA MSA.....	409	496	580	721	814	
Salem-Gloucester, MA PMSA.....	535	650	765	956	1072	
Springfield, MA MSA.....	445	541	636	795	890	
Worcester, MA MSA.....	424	522	611	768	866	

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING - Effective 10/1/90
M A S S A C H U S E T T S continued
METROPOLITAN STATISTICAL AREAS
EFF 1 BR 2 BR 3 BR 4 BR Component

METROPOLITAN STATISTICAL AREAS						
	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within state
TOTAL COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable.....	848	076	774	907	1085	Adams, Alford, Becket, Clarksburg, Egremont, Florida
Berkshire.....	359	437	814	644	721	Great Barrington, Hancock, Monterey, Mount Washington

MICHIGAN METROPOLITAN STATISTICAL AREAS.

METROPOLITAN STATISTICAL AREAS.	CFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Ann Arbor, MI PMSA	415	505	595	744	834	Vashtonsav
Battle Creek, MI MSA	280	341	400	503	564	Calhoun
Baynton Harbor, MI MSA	312	380	445	558	625	Berrien
Detroit, MI PMSA	349	425	499	625	699	Lapeor. Livingston. Macomb. Monroe. Oakland. St Clair Wayne
Ptine, MI MSA	286	359	425	531	594	Bennee
Grand Rapids, MI MSA	332	407	477	596	673	Kont. Ottawa
Jackson, MI MSA	309	374	441	552	618	Jackson
Kalamazoo, MI MSA	321	388	456	581	635	Kalamazoo
Lansing-East Lansing, MI MSA	336	405	474	550	659	Clinton. Eaton. Ingham
Muskegon, MI MSA	274	333	393	492	591	Muskegon
Saginaw-Bay City-Midland, MI MSA	305	366	432	541	606	Bay. Midland. Saginaw

Notes: The FMR for unit sizes larger than 4 BR are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is \$1,115.15 (the 4BR FMR, and the FMR for a 5 BR unit is 1.20 times the 4 BR FMR. 092090

EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



Michael S. Dukakis, Governor
Amy S. Anthony, Secretary

MEMORANDUM

TO: ALL MSCP GRANTEES, SUB-GRANTEES AND ADMINISTERING AGENCIES

FROM: TONI COYNE HALL, DEPUTY ASSISTANT SECRETARY FOR COMMUNITY DEVELOPMENT

RE: REVISED REGULATION - USE OF ESCROW ACCOUNTS FOR
REHABILITATION OF PRIVATELY OWNED RESIDENTIAL PROPERTY
EFFECTIVE DATE: SEPTEMBER 7, 1990

DATE: AUGUST 28, 1990

This is to inform you that the U.S. Department of HUD has issued a final rule concerning the use of escrow accounts (CFR 570.511). I have enclosed a copy of the revised regulations. These changes may significantly impact your present use of escrow accounts. The final rule affects any MSCP grant as of September 7, 1990. Please review these requirements to ensure your bank account and corresponding accounting records meet these requirements. The following shall provide a summary of key points which reflect significant changes from MSCP "Escrow Account Policy" found in Chapter 6 of the MSCP Financial Management Manual. Please be advised the regulations are effective September 7, 1990 and therefore any funds deposited into an escrow account prior to the above date shall be administered in accordance with MSCP "Escrow Account Policy".

Please incorporate these changes into the MSCP Financial Manual, Chapter Six.

If you have any questions, please refer them to your fiscal representative at 617-727-0494.

Attachment

TC:mrf

*Project
Implementation
Manual Insert
also to Financial Mgmt
Manual*

Toni Coyne Hall

CFR 570.511 ESCROW ACCOUNT REGULATION
Effective 9/7/90

MSCP ESCROW ACCOUNT POLICY

o Loans & grants for private property rehab (housing/commercial). No unit limitation nor limitation on small commercial rehab projects	* Loans and grants for "residential" rehab (1-4 units); commercial store front may be included if in same structure as residential units.
o Contract contained no stipulation identifying payments via an escrow account.	* Contract between property owner/contractors specifies payments via an escrow account maintained by the Town.
o Deposit to escrow made after execution of a property owner/contractor contract.	o Deposit to escrow made after execution of a property owner/contractor contract.
o Deposit limited to amount specified in property owner/contractor contract. Funds may be held up to 180 days from the date of deposit.	* Amount of deposit limited to amount expected to be disbursed within <u>10 working days</u> from date of deposit.
o Program funds may be retained in one central bank account or individual accounts as long as accounting records provide a sufficient audit trail.	* One interest-earning bank account to be established. Individual accounts for each loan/grant is prohibited.
o Interest earned must either be used for payments to contractors or treated as program income.	* Interest earned (less service charges) shall be remitted to HUD (at least quarterly but no more frequently than monthly. Refer to Chapter 2, MSCP Implementation Manual.) <u>Note:</u> Interest attributable to program income accounts may be retained by recipients.
o Only rehab. costs may be paid from the account.	o Only rehab costs (construction) may be paid from this account.

*Denotes change from MSCP Escrow Account Policy.

SAMPLE LETTER TO HUD

RE: RETURN OF EARNED INTEREST

Date

Ms. Karen Malfy
U.S. Department of Housing
and Urban Development, CPD
Boston Regional Office, 3rd Floor
10 Causeway Street
Boston, MA 02222-1092

Dear Ms. Malfy:

Enclosed is a check made payable to the Department of Housing and Urban Development in the amount of \$_____, which represents interest earned on a Community Development Block Grant depository account and/or rehab. escrow account, for the period of _____.

The source of these funds is a letter of credit #86-00-1443 which is passed through the Commonwealth of Massachusetts Small Cities Program.

If there are any questions, please call _____
_____ at (617)727-0494.

Sincerely,

Name
Title

Enclosure

STATE: MASSACHUSETTS
PREPARED: 1-2-90

		INCOME LIMITS-----									
PROGRAM		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON	0 PERSON
PMSA: Boston, MA											
FY 1990 MEDIAN FAMILY INCOME:	46300	25000	28530	32150	35700	37950	40150	42450	44850		
		16590	18900	21300	23650	25550	27450	29350	31200		
PMSA: Brockton, MA											
FY 1990 MEDIAN FAMILY INCOME:	42000	23500	26900	30250	33600	35700	37800	39950	42000		
		14700	16800	18900	21000	22700	24350	26050	27700		
PMSA: Fall River, MA-RI											
FY 1990 MEDIAN FAMILY INCOME:	32300	19030	22500	25300	28100	29850	31600	33400	35150		
		12300	14050	15800	17550	18930	20350	21750	23150		
MSA : Fitchburg-Leominster, MA											
FY 1990 MEDIAN FAMILY INCOME:	36900	20690	23600	26550	29500	31350	33200	35050	36900		
		12900	14750	16600	18450	19950	21400	22900	24350		
PMSA: Lawrence-Haverhill, MA-NH											
FY 1990 MEDIAN FAMILY INCOME:	43500	24350	27850	31300	34800	37000	39150	41350	43500		
		15250	17400	19550	21750	23500	25250	26950	28700		
PMSA: Lowell, MA-NH											
FY 1990 MEDIAN FAMILY INCOME:	45900	25000	28550	32150	35700	37950	40150	42450	44650		
		16080	18350	20650	22950	24800	26600	28450	30300		
MSA : New Bedford, MA											
FY 1990 MEDIAN FAMILY INCOME:	32100	19650	22500	25300	28100	29850	31600	33400	35150		
		12300	14050	15800	17550	18950	20350	21750	23150		
PMSA: Pawtucket-Woonsocket-Attleboro, RI-MA											
FY 1990 MEDIAN FAMILY INCOME:	37200	21850	24950	28100	31200	33150	35100	37100	39000		
		13650	15600	17550	19500	21050	22600	24200	25750		
MSA : Pittsfield, MA											
FY 1990 MEDIAN FAMILY INCOME:	37600	21050	24100	27100	30100	32000	33850	35750	37650		
		13150	15050	16900	18800	20300	21800	23300	24800		
PMSA: Salem-Gloucester, MA											
FY 1990 MEDIAN FAMILY INCOME:	47200	25000	28550	32150	35700	37950	40150	42450	44650		
		16500	18900	21250	23600	25500	27400	29250	31150		
MSA : Springfield, MA											
FY 1990 MEDIAN FAMILY INCOME:	36400	20350	23300	26200	29100	30900	32750	34600	36400		
		12750	14590	16400	18200	19850	21100	22550	24000		
MSA : Worcester, MA											
FY 1990 MEDIAN FAMILY INCOME:	39100	21900	25050	28150	31300	33250	35200	37200	39150		
		13700	15650	17600	19550	21100	22700	24250	25800		

STATE: MASSACHUSETTS
PREPARED: 1-2-90

		-----I N C O M E L I M I T S-----									
PROGRAM		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON	10 PERSON
COUNTY : MA BARNSTABLE											
FY 1990 MEDIAN FAMILY INCOME: 35700		20000	22850	25700	28550	30350	32100	33950	35700	37500	39250
		15000	17100	19250	21400	23100	24800	26550	28250	29950	31650
NONMSA PART: MA BERKSHIRE											
FY 1990 MEDIAN FAMILY INCOME: 32900		19650	22300	25300	28100	29850	31600	33400	35150	36900	38650
		12300	14050	15800	17550	18950	20350	21750	23150	24550	25950
NONMSA PART: MA BRISTOL											
FY 1990 MEDIAN FAMILY INCOME: 36100		20250	23100	26000	28900	30700	32500	34350	36150	37950	39750
		12650	14450	16250	18050	19500	20950	22400	23850	25300	26750
COUNTY : MA DUKES											
FY 1990 MEDIAN FAMILY INCOME: 32100		19650	22500	25300	28100	29850	31600	33400	35150	36900	38650
		15000	17100	19250	21400	23100	24800	26550	28250	29950	31650
COUNTY : MA FRANKLIN											
FY 1990 MEDIAN FAMILY INCOME: 33900		19650	22500	25300	28100	29850	31600	33400	35150	36900	38650
		12300	14050	15800	17550	18950	20350	21750	23150	24550	25950
NONMSA PART: MA HAMPDEN											
FY 1990 MEDIAN FAMILY INCOME: 35600		19950	22800	25650	28500	30300	32050	33850	35650	37450	39250
		12450	14250	16000	17800	19200	20650	22050	23500	24950	26400
NONMSA PART: MA HAMPSHIRE											
FY 1990 MEDIAN FAMILY INCOME: 36900		20650	23600	26550	29500	31350	33200	35050	36900	38750	40600
		13500	15400	17300	19250	20800	22350	23850	25400	26950	28500
COUNTY : MA NANTUCKET											
FY 1990 MEDIAN FAMILY INCOME: 43900		24550	28100	31600	35100	37300	39500	41700	43900	46100	48300
		15350	17550	19750	21950	23700	25450	27200	28950	30700	32450
NONMSA PART: MA PLYMOUTH											
FY 1990 MEDIAN FAMILY INCOME: 30500		19650	22500	25300	28100	29850	31600	33400	35150	36900	38650
		12300	14050	15800	17550	18950	20350	21750	23150	24550	25950
NONMSA PART: MA WORCESTER											
FY 1990 MEDIAN FAMILY INCOME: 35500		19900	22700	25550	28400	30200	31950	33750	35500	37300	39050
		12450	14200	15950	17750	19150	20600	22000	23450	24900	26350

MEMORANDUM

TO: MSCP Program Representatives and Fiscal Monitors

FROM: Scott Hebert 

DATE: March 29, 1989

RE: Review of Quarterly Reports

Quarterly Report submissions for the period ending 3/31/89 are soon due from most of our General Fund grantees.

Over the past year, independent auditors (CPA's) looking at our grants management systems, Karen Malfy, and the HUD Affirmative Action/Fair Housing staff (in their annual monitoring of MSCP) have raised some questions about our Quarterly Report review procedures in a few areas. These include:

- a) "certification" that the Quarterly Report submissions are in fact being regularly reviewed by MSCP staff;
- b) evidence that MSCP staff are routinely tracking each grantee's compliance with "national objectives" as their local programs progress, consistent with the objectives and goals approved in their applications;
- c) requirements for consistent grantee submission of accurate beneficiary and contractor data for Affirmative Action/EEO evaluation purposes;
- d) tracking of the use of program income and lump sum arrangements.

By and large, I feel we have done a good job with ensuring that the Quarterly Reports' accomplishments breakdown and narrative, and the financial activities presentations, are complete, consistent with each other, and understandable. As a result, I feel the issues raised by these outside monitoring groups only require slight revisions and fine-tuning of our procedures.

To respond to issues (b), (c), and (d) above, I ask that you make a special effort, when reviewing Quarterly Reports, to ensure that the beneficiary breakdown, contractor utilization form, lump sum, and supplementary income data (if applicable) are also submitted in a complete and accurate fashion. If any of these relevant sections is missing or obviously incomplete/inaccurate, the Quarterly Report is not acceptable. Also, if this information is accurately submitted, but reveals a possible problem (e.g., no minority beneficiaries in a target area with a substantial minority population; no private funds being spent under the lump sum arrangement; inadequate documentation of low/moderate jobs created, or low/moderate beneficiaries for an "area-wide" activity; etc.) follow-up is warranted.

To address (a) above, I ask that you initial and date the cover page of the Central File copy of each grantee's Quarterly Report when you have reviewed it, and indicate either "O.K." (meaning it is complete and accurate) or "N.F." (meaning it "needs follow-up" to obtain corrections or missing information).

I think our recent individual experiences around close-out documentation suggests that if we ensure complete and accurate information on an on-going basis through the Quarterly Reports, "close-out" will be "a piece of cake". That's one clear benefit from this closer review of Quarterly Reports.

Thank you.

Attachments - Notice to MSCP grantees (3/29/89)
- Example of some Quarterly Report Problems

CC: Beth Jeppson
Toni Coyne Hall

SH/lgr

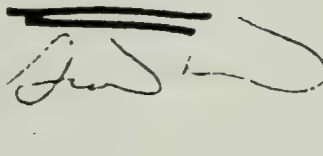
EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT

MEMORANDUM



Michael S. Dukakis, Governor
Amy S. Anthony, Secretary

To: Massachusetts Small Cities Grantees

From: Scott Hebert, MSCP Director 

Date: 3/29/89

Subject: Quarterly Reports

This is a reminder for MSCP grantees, and particularly new FY 88 General Fund grantees, about the importance of submitting complete and accurate Quarterly Reports on time, according to the schedule in Attachment C of your Grant Agreement.

These reports are used by our staff to track your program progress and technical assistance needs, as well as to derive statistics to report to the Secretary's office, the Governor and Legislature, and HUD.

As a result of the importance of this data, per Section 2.05 of your Grant Agreements, failure to submit by the specified deadlines complete and accurate Quarterly Reports will result in the suspension of your ability to drawdown MSCP funds. This applies to all sections of the Quarterly Report, including the forms on beneficiary breakdown, contractor utilization, lump sum (if applicable), and supplementary income data (if applicable).

Your assigned MSCP Program Representative and Fiscal Monitor will be reviewing and signing-off on these reports (which is why it is important to submit three copies of each). If they have questions or identify incomplete data, they will try to resolve the issues expeditiously over the telephone. However, more serious deficiencies could require communities to re-submit corrected Quarterly Reports, and in the interim, their ability to draw-down funds could be suspended.

Therefore, to help ensure no interruptions in the flow of MSCP funds to your community, please invest the time to properly complete and submit your reports by the specified deadlines.

Thank you.

cc: MSCP staff
Carolyn Britt, EOCD

Part B

- o Projection for Admin. activity completions redundant (2nd, 3rd, 4th qtrs)
- o Projected units under construc is greater than projected HR units approved (in the Year-to-date column)
- o Parts B,C, and E claim 3 HR units complete, but Part D-1 shows no expenditures from escrow, and Part F notes units actually won't be complete for 3 weeks or so.

Part D-1

- o Drawdowns for 4D and 4F switched (committed verses drawdown)
- o Money in "escrow" counted as "expended" (4D)
- o 4F shows more money "expended" than has been "committed"

Part E

- o Claims benefits for units not yet completed
- o all 3 units out of TA !!!
- o individual characteristics inconsistent-- totals for "race" should equal totals for "inc" ; it looks like community is giving "unit" stats for some parts of this section, rather than individual stats.

Part F

- o Contract for Bob Dubovsky's consultant services?

Other -- Status of Program Income?

CERTIFICATION
Part A

OCT 21 1988

COMMUNITY: Bellingham Community DevelopmentPeriod covered by this report: 7/1/88 to 9/30/88QUARTERLY REPORT # 4 for FY 87

Person compiling data for this report:

Robert Dubovsky/OCD ConsultantPhone # 508/955-363910 days
late

Community Certification

I certify that, to the best of my knowledge, this quarterly report is accurate, that the Massachusetts Small Cities Program funds have not been used to reduce local support for community development activities, and that the above cited Massachusetts Small Cities Program grant has been administered in full compliance with the agreed upon terms.

Robert Dubovsky
 Chief Elected Official

10-17-88
 Date

AMENDMENTS

List below any and ALL amendments to your grant and the EOCD approval date. This list should be cumulative from the beginning of the grant term. Include approved extensions, program and monetary changes.

AMENDMENT (brief description) _____ EOCD Approval Date _____

Adjustment of Rehabilitation Grants and Loan Amounts
 6/1/88-Approval Pending

Activity 4C Loans - Full DPL \$100,000
 Partial DPL \$36,000 = \$136,000

4D Grants \$112,000.00

Massachusetts Small Cities Program - Quarterly Activity Report
ACTIVITY SCHEDULE
Part B

Rev. 8.87

COMMUNITY: Bellingham Community Development

QUARTERLY REPORT # 4 for FY 87

PERIOD ENDING: 9 / 30 / 88

PROGRAM ACTIVITY (Code & Title)	1st Quarter (Nov - Dec)		2nd Quarter (Jan - Mar)		3rd Quarter (Apr - Jun)		4th Quarter (Jul - Sep)		5th Quarter (Oct - Dec)		Year-to-Date CUMULATIVE	
	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual
1. HOUSING REHAB. min. Asst. line Rehab. Spec. line Secretary Marketing ASES:			X X X X	X X X X	X X X X	X X X X	X X X X					
2. Requested ypps. Approved	15	5	20	5	25	20	8	11			60	41
3. Units Surveyed	10	5	15	5	10	4	8	4			35	18
4. Units out to Bid	5	0	10	6	10	4	1	1			25	11
5. Loans Approved	5	0	10	2	25	10	8	1			40	11
6. Units Total	5	0	10	0	5	7	1	1			15	8
(Units) PRG												
DP						4						4
Partial DP						3						4
Units Const. Begun			10		20	0	10	8			30	8

INSTRUCTIONS:

- 1) Fill in your projected (Proj) accomplishments for the 12-month grant term using the milestones found on your approved schedule. A list of the milestones is provided in the application package. If other milestones seem more appropriate consult with your program representative. Note that the schedule above reflects only 14 months. You should schedule all completions to coincide with the end of the 5th quarter, reserving the last month to close all projects. You should schedule all completions to coincide with the projections. Projected accomplishments should only be changed upon submission and approval of a revised activity schedule.
- 2) Update the Year-to-Date column at the far right.
- 3) Assuming there are no extensions to your program, you will then submit a final report at the end of the 12th month. If the grant term is extended beyond the 12-month period, simply add another sheet to your quarterly report clearly indicating the quarters (both numbers and dates) and projected accomplishments for the entire extension period.

THIS FORM MUST BE LEGIBLE OR IT WILL NOT BE ACCEPTED

Massachusetts Small Cities Program - Quarterly Activity Report
ACTIVITY SCHEDULE
Part B

Rev. 8.87

COMMUNITY: Bellingham Community Development

QUARTERLY REPORT # 4 for FY 87

PERIOD ENDING: 9 / 30 / 88

PROGRAM ACTIVITY (Code & Title)	1st Quarter (Nov - Dec)		2nd Quarter (Jan - Mar)		3rd Quarter (Apr - Jun)		4th Quarter (Jul - Sep)		5th Quarter (Oct - Dec)		Year-to-Date CUMULATIVE	
	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual	Proj	Actual
nits Const. Complete	5.....	0.....	15.....	0.....	5.....	3.....	.....	.....	40.....	3.....
6 Public Facilities (Water Main)
financing PKG Completed
D/E RFP Advertised	0.....	.....	.....	Design & Specs completed in house	.....	.....	.....	.....	.....	.....	.....
D/E Award Made
D/E Completed
Const. RFP Advertised
Const. Award Made	(RFP Bid to be Readvertised.	.....	.....	.....	.....	.....
Const. Started	All Bids Rejected - Too High	.....	.....	.....	.....	.....

INSTRUCTIONS:

- 1) Fill in your projected (Proj) accomplishments for the 13-month grant term using the milestones found on your approved schedule. A list of the milestones is provided in the application package. If other milestones seem more appropriate consult with your program representative. Note that the schedule above reflects only 14 months. You should schedule all completions to coincide with the end of the 5th quarter, reserving the last month to close all projects.
- 2) As each quarter ends, fill in the actual (Actual) accomplishments for that quarter. Your actual accomplishments will not always agree with the projections. Projected accomplishments should only be changed upon submission and approval of a revised activity schedule.
- 3) Update the Year-to-Date column at the far right.
- 4) Assuming there are no extensions to your program, you will then submit a final report at the end of the 13th month. If the grant term is extended beyond the 13-month period, simply add another sheet to your quarterly report clearly indicating the quarters (both numbers and dates) and projected accomplishments for the entire extension period.

THIS FORM MUST BE LEGIBLE OR IT WILL NOT BE ACCEPTED

PERIOD ENDING: 9 / 30 / 88

Year-to-Date
CUMULATIVE

Proj	Actual
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

Construction RFP Advertised

THIS FORM MUST BE LEGIBLE OR IT WILL NOT BE ACCEPTED

Rev. 8.87

PERIOD ENDING: 9 30, 00

Year-to-Date
Cumulative

Proj	Actual
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

Instruction complete.

- 1) Fill in your projected (Proj) accomplishments for the 13-month grant term using the milestones found on your approved schedule. A list of the milestones is provided in the application package. If other milestones seem more appropriate consult with your program representative. Note that the schedule above reflects only 14 months. You should schedule all completions to coincide with the end of the 5th quarter, reserving the last month to close all projects.
- 2) At each quarter ends, fill in the actual (Actual) accomplishments for that quarter. Your actual accomplishments will not always agree with the projections. Projected accomplishments should only be changed upon submission and approval of a revised activity schedule.
- 3) Update the Year-to-Date column at the far right.
- 4) Assuming there are no other changes, the final column at the far right will be the total accomplishments for the 13-month period.

—

NARRATIVE DESCRIPTION

Part C

COMMUNITY: BellinghamReport # 4 for FY 87Period Ending 9 / 30 / 88INSTRUCTIONS:

List each major activity funded and give an informative narrative of accomplishments/progress THIS QUARTER.

Highlight problems and steps taken to resolve the problems.

If there has been no progress, indicate so and the reasons why.

If a project is complete, indicate so.

List major administrative tasks undertaken, as applicable. These may be directly related or complementary to the current MSCP grant.

(Examples include: Submission of EDSA application, merchant survey to assess economic development needs, or completion of subgrantee negotiations and contracts.

DO NOT SEND A PHOTOCOPY OF THE PREVIOUS QUARTER'S NARRATIVE.

ACTIVITY	DESCRIPTION
----------	-------------

#4 HOUSING

We have inspected one of the new cases during this period, signed one new agreement and completed 3 cases. This is less than originally projected due to the loss of a full time Director who worked with the Rehabilitation Specialist in doing surveys, work write ups etc. In addition, the Rehab Specialist also spent time working on the Water Main RFP Bid process which reduced the amount of time further available to the Rehab Program.

The Administrative Assistant and Rehab Specialist have spent additional time with older applicants educating them on the program and its direct benefit to the elderly low income population of Bellingham. We found that many of these income eligible applicants did not fully understand the nature of this program even though previous publicity notices were provided. The direct "one on one" education is proving to alleviate the fears many elderly residents have had of the "Government" taking their home away through this type program.

#6 PUBLIC FACILITIES

We have requested an extension on the FY 86 Sidewalk Renovation Program due to DPW vacations, personnel sickness and weather related delays, we have therefore reviewed our position on whether the Town DPW could effectively handle the new FY 87 Sidewalk Renovation Program. After recently reviewing this with the DPW Superintendent, Gerry Daigle, we have decided to submit this out to bid. The RFP process will be completed by 1/20/89. Bids will be opened on February 24, 1989.

The Water Main & Replacement Project bid opening was held September 9, 1988. We received five bids. All bids received were over projected Water Department estimates due to the potential ledge factor being unknown. We have rejected all bids and will rebid this project on March 3, 1989. We will have a separate test probing done by the town and will provide all previous bidders that may still

NARRATIVE DESCRIPTION

Part C

REVISED

COMMUNITY: BellinghamReport # 4 for FY 87Period Ending 9 / 30 / 88INSTRUCTIONS:

- 1) List each major activity funded and give an informative narrative of accomplishments/progress THIS QUARTER.
- 2) Highlight problems and steps taken to resolve the problems.
- 3) IF there has been no progress, indicate so and the reasons why.
- 4) IF a project is complete, indicate so.
- 5) List major administrative tasks undertaken, as applicable. These may be directly related or complementary to the current MSCP grant. (Examples include: Submission of EDSA application, merchant survey to assess economic development needs, or completion of subgrantee negotiations and contracts.
- 6) DO NOT SEND A PHOTOCOPY OF THE PREVIOUS QUARTER'S NARRATIVE.

ACTIVITY	DESCRIPTION
----------	-------------

#9 GENERAL ADMIN.

Historical Survey \$5,000.

We are in the process of reviewing bids for award with EOCD regarding the \$5,000 allocated EOCD GF-87 Historical Survey. We anticipate EOCD approval on our selection by 11/15/88. The consultant will start within 30-60 days of a pending agreement. We have completed the Request For Proposals for a Historical Consultant to provide a Town Wide Historical Study with the EOCD \$5,000. allocated. We were not successful in obtaining an additional matching \$5,000. from Mass. Historical, in order to provide a greater detailed town wide study. We have gone out to bid for this Consultant. We have asked all bidders to hold their bid for 90 days in order that we may obtain Mass. Historical's decision as to our obtaining their \$5,000. additional financial assistance for the town wide historical study. We are to receive word on this from Massachusetts Historical Commission in mid-July.

We have advertised and conducted interviews for the new Full time Director's position and submitted the top candidate's application to EOCD for their review and input. This position will be filled by mid November.

We will be advertising for an Administrative Assistant to replace Katie Breitfelders' position within 30 days (by mid November). We hope to have this position filled by 1/1/89.

Public outreach and education regarding the Housing Rehabilitation Program is a ongoing effort and due to the loss of a Director for two months of this three month period, additional time spent by the Rehab Specialist and Administrative Assistant was required.

Massachusetts Small Cities Program - Quarterly Report
BREAKDOWN OF FINANCES
Part D-1

Rev. 3.57

COMMUNITY: Bellingham Community Development

QUARTERLY REPORT # 4 for FY 87

PERIOD ENDING 9 / 30 / 87

Code & Description	Activity	\$ Allocation	COMMITTED %	Drawdowns (Advances Received)	EXPENDITURES				
					FY 1983		Year-to-Date		
					Quarters (Cumulative)	This Quarter	Date & (Cumulative)	Year-to- Date %	
4A Housing Rehab. Admin.		\$38,450.00	6%	\$1,500.00	\$1,500.00	\$331.37	\$2,331.37	6%	\$29,000.00
4D Principal Reduct. Grant		\$112,000.00	26%	\$23,750.00	\$23,000.00	= 0 =	29,000.00	26%	\$29,000.00
4C Principal Reduct. Loan		\$35,000.00	0%	= 0 =	= 0 =	= 0 =	= 0 =	0%	
4F Full DPL		\$100,000.00	24%	\$29,000.00	\$23,750.00	\$6,492.00	\$30,242.00	30%	\$23,750.00
6A Public Facil. Admin.		\$7,200.00	0%	= 0 =	= 0 =	= 0 =	= 0 =	0%	
6B Streets & Sidewalks		\$10,000.00	0%	= 0 =	= 0 =	= 0 =	= 0 =	0%	
6F Water & Sewer		\$59,000.00	0%	= 0 =	= 0 =	= 0 =	= 0 =	0%	
9 General Administration		\$48,150.00	9%	\$1,500.00	\$1,500.00	\$3,295.62	\$4,795.62	9%	
TOTALS		\$445,800.00	12 1/2%	NONE	- 0 -	\$55,350.00	\$55,750.00	12 1/2%	

INSTRUCTIONS:

Code & Description: Every activity and sub activity must be listed. If no financial transactions have taken place for a particular activity, simply enter -0- in the appropriate column(s).

1 Allocation: Refer to your original budget activity code sheet. If and when a Budget Amendment or transfer has occurred, please indicate so with a numbered footnote explained in the narrative section.

2 Committed: Enter the amount of the previous column covered by signed contracts.

3 Committed: Divide the 2 Committed by the 1 Allocation. Enter the percentage here.

Drawdowns (Advances Received): Enter the total amount of funds received by the community's bank as per the Requests for Payments.

EXPENDITURES: Enter the total dollar amount of funds expended since the beginning of the grant term, excluding the current quarter.

This Quarter: Enter the total dollar amount of funds expended during the current quarter.

Year-to-Date %: Add the two previous columns and enter this amount.

Year-to-Date %: Divide Year-to-Date % by 1 Allocation. Enter this percentage.

Amount in Escrow: Enter the total amount of funds in escrow accounts as of the end of the quarter. This should be the difference between the total amount of funds received for rehabilitation and the total amount expended for rehabilitation.

TOTAL ALL COLUMNS AT THE BOTTOM

**Massachusetts Small Cities Program
BENEFICIARY BREAKDOWN
Part E
(Cumulative)**

COMMUNITY: Bellingham Comm. Dev. Report # 4 for FY 87 Date: 9 / 30 / 88

INSTRUCTIONS:

- 1) The following information must be collected for each project you undertake with Small Cities Funds whenever you have claimed L/M Benefit as your National Objective.
- 2) Update this form each time a project is completed and submit each quarter.
- 3) Always indicate the year-to-date totals.

You will note below that we request both UNIT information for housing rehabilitation projects and INDIVIDUAL information for all projects (including housing rehabilitation).

In the section below on individual characteristics you will find a column marked "D" (Direct) and "I" (Indirect) for each type of activity except housing and social services. Housing rehabilitation and social service projects always have direct beneficiaries. For other projects you will have to make a determination as to whether the project(s) you undertake are direct or indirect. A project cannot be both. The following definitions should help you in making this determination.

DIRECT BENEFICIARIES

Housing Rehab: Indicate all full time residents of the assisted unit.
Economic Development: Indicate individuals holding jobs created or retained upon completion of projects.
Public Facilities: Indicate individuals if the project directly benefits a specific living unit. (For example sewer hookups.)

INDIRECT BENEFICIARIES

Economic Development: Use verifiable data (such as census data) for the area.
Public Facilities: Use verifiable data (such as census data) for the area.

HOUSING UNIT INFORMATION

	Low/Mid Income	Over Income
# Owner Occupied Units	3	
# Tenant Occupied Units	0	
# Female Headed Household Units	1	
# Handicap Units	1	
# Out of Target Area Units	3	
# Elderly Occupied Units	1	
# Vacant Units	0	

INDIVIDUAL CHARACTERISTICS

		HOUSING REHAB		ECONOMIC DEVELOPMENT		PUBLIC FACILITIES		SOCIAL SERVICES		OTHER	
		(D)	(I)	(D)	(I)	(D)	(I)	(D)	(I)	(D)	(I)
R A C E	White	4		N/A	N/A	N/A	N/A	N/A		N/A	N/A
	Black	N/A		N/A	N/A	N/A	N/A	N/A		N/A	N/A
	Hispanic	N/A		N/A	N/A	N/A	N/A	N/A		N/A	N/A
	Asian/Pacific Islander	N/A		N/A	N/A	N/A	N/A	N/A		N/A	N/A
	American Indian/Alaska Native	N/A		N/A	N/A	N/A	N/A	N/A		N/A	N/A
I N C	Up to 50% Median	3		N/A	N/A	N/A	N/A	N/A		N/A	N/A
	50-80% Median	N/A		N/A	N/A	N/A	N/A	N/A		N/A	N/A
	Median & Above	N/A		N/A	N/A	N/A	N/A	N/A		N/A	N/A
M I S C	Handicap	1		N/A	N/A	N/A	N/A	N/A		N/A	N/A
	Out of Target Area	3		N/A	N/A	N/A	N/A	N/A		N/A	N/A
	Elderly (65+)	1		N/A	N/A	N/A	N/A	N/A		N/A	N/A

MASSACHUSETTS SMALL BUSINESS PROGRAM
CONTRACT & SUB CONTRACT ACTIVITY
Part F

REV. 8.87

JUNTY: Bellingham Community Development

Report # 4 for FY 87

Date 9 / 30 / 88

Activity Title	Date of Contract	Contract Description	Amount of Contract	Type of Trade	Racial Ethnic Code	Contractor / Subcontractor ID Number	Contractor / Subcontractor Name, Address, City
		Note as mentioned in Report #3, Seven Rehab. Contracts not exceeding \$10,000.00 each have signed contracts during this period.					
		Note Three jobs will be completed within the next three weeks. Four jobs are out to bid.					
		Note No other private or other contracts have been signed. No minority or small business, etc.					

INSTRUCTIONS.

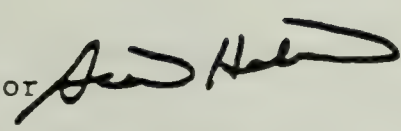
This list must be cumulative. The following contracts must be reported to EOCD if CDBG funds are involved.

- 1) All contracts between the community and any other organization or firm regardless of the amount of the contract.
 - 2) All subcontracts related to 1) above.
 - 3) All private rehabilitation contracts over \$10,000 regardless of the amount of the contract.
 - 4) All subcontracts over \$10,000 related to 3) above.
 - 5) All public and private contracts involving minority or women-owned firms.
- Code of Trade: 1- Construction; 2- Education/Training; 3- Other.
- Code Racial/Ethnic Code: 1-White; 2-Black; 3- American Indian/Alaskan Native; 4- Hispanic; 5- Asian/Pacific Islander.

EXECUTIVE OFFICE OF COMMUNITIES & DEVELOPMENT



Michael S. Dukakis, Governor
Amy S. Anthony, Secretary

TO: FY 1986 MSCP Grantees
FROM: Scott Hebert, MSCP Director 
DATE: January 16, 1987
RE: Procurement of/contracting with Management Services Consultants

As we did last year, the MSCP will require FY 1986 grantees who plan to utilize management services consultants to administer part or all of their General Fund award, or consultants for technical assistance in the design, implementation, or evaluation of their program, must submit documentation of the procurement process, and the draft Management Services Contract to EOCD for prior approval.

These requirements derive from OMB Circulars A-87 and A-102, and are included as conditions in your grant agreement for the FY 1986 MSCP General Fund (Section 4.10. Procurement Standards; Attachment B, Section B(5), Contractual Management Assistance). Their intent is to help ensure that: (a) proper procurement was followed prior to funds being legally obligated to consultants; and (b) adequate language is included in the Management Services Contract to permit the city/town to keep the consultant accountable to the city/town's program goals, and to MSCP policies and procedures.

I. Procurement of Management Services Consultants

Generally, a city/town must follow a competitive procurement process in soliciting and selecting a management services consultant. The procedures are detailed in your MSCP Financial Compliance Manual (Chapter 3), and are designed to promote "maximum free and open competition" so that the city/town receives efficient and effective services. While the procedures vary somewhat depending on the dollar amount of the proposed contract, basically what is required is the following:

- o establishment of proposal review criteria prior to the actual receipt of proposals
- o formal advertisement and/or extensive outreach to prospective vendors
- o compliance with affirmative action/equal employment opportunity standards
- o documentation of the basis by which the selection of the consultant was made

To facilitate documenting this process, we have included in this mailing

as Appendix #1 a Procurement Summary form which you should complete and submit with your draft Management Services Contract.

Exception: Section 105 (a)(15) of Title I of the Housing and Community Development Act of 1974 has been interpreted by the MSCP as allowing Massachusetts grantee communities to designate Community Development Corporations (CDC's), Housing Authorities, or Regional Planning Agencies (RPA's) as administering agents for their local MSCP programs without going through a formal procurement process. However, the Chief Elected Official(s) of the grantee should document in writing the community's designation of such an organization as the city/town's administering agent or management services consultant, and must execute a formal contract with the organization relative to the services to be provided (as is to be done with all other administering agents selected through formal procurement).

II. Contracting with the Consultant

In reviewing draft Management Services Contracts, what the MSCP staff will be looking for is that the contract includes an adequate Scope of Services, Schedule and Method of Compensation, and "boilerplate" language regarding consultant compliance with general HUD and MSCP requirements associated with the Small Cities General Fund grant to the city/town.

A. Sample Boilerplate Language

To assist communities in the expeditious development of contracts meeting such requirements, we have attached a sample boilerplate section for use in Management Services Contracts (see Appendix #2). Communities may either utilize this boilerplate, or may develop their own language, as long as such language deals comprehensively with the accountability issues and the program requirements identified in the sample boilerplate.

B. Sample Scope of Services

We have also attached several sample Scope of Services sections (Appendix #3) to provide examples of how a Scope of Services, and therefore the work to be performed by the consultant, might be detailed in the contract with the city/town. As part of the Scope of Services, communities should seek to define the specific objectives and activities of the consultant, the staff or other resources that will be devoted to each activity, and the timetable for each activity or objective's completion. As much as possible, grantees should endeavor to try to tie the consultant's Scope of Services to the formal goals of the MSCP grant award (e.g., 40 units of low/moderate income housing rehabilitated by January 31, 1988).

C. Method and Schedule for Compensation

Generally, contracts with consultants handle compensation in one of two basic ways: billing based on an hourly (or some other time frame) rate, or billing based upon the delivery of a specific product (e.g., a report, an engineering analysis, documentation of a completed rehab job, etc.). In most cases we would encourage cities/towns who are FY 1986 MSCP grantees to consider using the latter approach (product-based compensation) if it can be negotiated, for this approach is most likely to ensure completion of the desired professional

services at the planned (and budgeted) cost.

This is a very important consideration for communities to keep in mind. If the city/town exhausts its administrative budget through consultant contracts, and yet the consultant(s) are not able to affect achievement of the community's MSCP goals, then the city/town could find itself responsible to complete the MSCP program with the additional administrative expenses coming out of local funds. Accountability of the consultants or administering agents to the budget, schedule, and goals of the MSCP grant award is, therefore, critical.

Appendix #4 presents an example of how one might structure compensation based upon product delivery. Alternatively, should the city/town want to allow the consultant to bill based upon an hourly rate, the grantee should still, as an explicit part of the contract, have the consultant estimate the projected costs of their major activities and their estimated completion dates. This will facilitate for the city/town the on-going monitoring of the Management Services Contract. The Consultant should also detail on invoices the actual time spent on activities.

III. Submission of Procurement Summary and draft Management Services Contract

Please submit your completed procurement forms (or designation letters) and draft Management Services Contract to your Program Representative. We hope to be able to review any such submission and communicate a response back to the city/town within ten (10) days. Communities should feel free to contact the MSCP staff with questions about the status of their management services submissions at any time, however.

APPENDIX #1
Management Services Consultant
Procurement Summary

Grantee: _____ Contact Person: _____
Address: _____ Telephone #: _____

1. How and when was RFP advertized, and/or proposals solicited?: _____

(For formal advertizements, please attach a copy of ad and dates published;
for other solicitations, attach list of vendors contacted.)

2. Closing date for accepting proposals: _____

3. Number of proposals received: _____

4. Names of persons participating in proposal review: _____

5. Proposal Review Summary. Please fill in matrix provided below. If you used
a numerical rating scale, please specify (e.g., 0 - 5, with "5" highest score).

EVALUATION CRITERIA	INDIVIDUALS OR FIRMS SUBMITTING PROPOSALS				
	RATING OF PROPOSAL -- use "good", "fair", "poor" or numerical scale				
a)					
b)					
c)					
d)					
e)					
f)					
g)					
OVERALL SCORE					

6. Additional discussions/negotiations?: _____

7. Consultant selected: _____ Date selected: _____

Justification: _____

Signature of authorized local official: _____

Date: _____

APPENDIX #2

SAMPLE

CONTRACT FOR PROFESSIONAL

SERVICES

The following contract is a sample. Cities and towns are not limited to the form as presented herein, but must in all cases meet the requirements of the Small Cities Program. It is recommended that cities and towns engage legal representation to review all contracts to which they are a party.

AGREEMENT

BY AND BETWEEN

AND

THIS AGREEMENT, made as of the _____ day of _____ 19__ by and between the City/Town of _____ of _____, Massachusetts (hereinafter referred as "The City/Town") and _____ (hereinafter referred to as "the Consultant").

WITNESSETH THAT:

WHEREAS, the City/Town of _____ has entered into an agreement with the Commonwealth of Massachusetts' Executive Office of Communities and Development (EOCD hereinafter) to undertake a Small Cities program of community development ("Program" hereinafter), pursuant to the Housing and Community Development Act of 1974 ("Act" hereinafter), as amended, and regulations thereunder, and

WHEREAS, professional services relating to the implementation and administration of the Program are sought to assist the City/Town in the timely achievement of the FY 1986 MSCP program objectives established by the City/Town's approved application to EOCD.

WHEREAS, EOCD has reserved its right pursuant to the "Act" and OMB Circular A-87 of the U.S. Office of Management and Budget to approve agreements between the City/Town and vendors of professional consultant services, this agreement will be submitted to EOCD for review and will not take effect until approved in writing by EOCD.

NOW, THEREFORE THE PARTIES HERETO DO AGREE AS FOLLOWS:

1. ENGAGEMENT OF CONSULTANT: The City/Town hereby engages the Consultant to perform the services set forth herein and the Consultant hereby accepts the engagement.

2. SCOPE OF SERVICES: The Consultant shall perform the necessary professional services as presented in its proposal to the City/Town dated _____; said "Scope of Services", with exceptions as noted, is found as Attachment A.

3. RESPONSIBILITY OF THE CITY/TOWN: The City/Town shall assume responsibility for assisting the Consultant insofar as possible for the purposes of efficiency and furnishing the Consultant with information needed to satisfactorily complete the services.

3.1. The Town shall designate a project representative authorized to act in its behalf with respect to the project.

4. REPORTING: The Consultant will submit written reports to the City/Town on the status of the professional services, according to the schedule and dates specified below, or at other times as required by an information request or reporting requirement of EOCD.

PROGRESS REPORT #

DATE DUE:

5. SUBCONTRACTS: No subcontracts may be awarded by the Consultant the purpose of which is to fulfill in whole or in part the services required of the Consultant, without prior written approval of the City/Town and the Executive Office of Communities and Development.

6. TIME OF PERFORMANCE: The services of the Consultant are to commence on _____ and shall be undertaken and completed in sequence as to assure their expeditious completion.

6.1. All services required hereunder shall be completed by _____ 19__.

7. COMPENSATION: The City/Town will pay the consultant a total fee in an amount not to exceed _____, including direct reimbursable expenses, based on invoices submitted in the approved form and according to the "Method and Schedule of Compensation", found as Attachment B.

8. GENERAL PROVISIONS:

8.1. RETENTION OF RECORDS: The Consultant shall maintain in accordance with OMB Circular A-102, and any EOCD regulations, procedures or guidelines, those books, records, and other documents, including but not limited to payroll records, accounting records, and purchase orders, that are sufficient to document that activities carried out were in accordance with this Agreement, and the primary objectives of the Act, and any other applicable laws and regulations. Such records shall contain all information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. The Consultant shall maintain such records for a period of three (3) years from the date of expiration of this Agreement, or if such records become the subject of audit findings, they shall be retained until such findings have been resolved, whichever is later.

8.2. ACCESS TO RECORDS: The Consultant shall make all books, accounts, records, reports, files, and other papers, things or property, that relate to its activities under this Agreement, available at all reasonable times for inspection, review, and audit by the City/Town, EOCD, their authorized representatives, authorized representatives of HUD, the Inspector General of the United States, or of the Commonwealth, the Auditor of the Commonwealth, and the U.S. General Accounting Office. The Commonwealth reserves the right of the Governor or his designee, the Secretary of Administration and Finance, and the State Auditor and his designee, at reasonable times and upon reasonable notice, to examine the books, records, and other compilative data of the Contractor which pertain to the performance of the provisions and requirements of this Agreement, as provided by Executive Order 195.

8.3. TERMINATION: The City/Town may terminate the contract upon 15 days written notice to the Consultant. In case of termination, all finished and unfinished documents shall become the property of the City/Town.

8.3.1. In the event of termination, the Consultant will be compensated for services provided to the date of termination, according to the "Method and Schedule of Compensation", Attachment B.

8.4. AMENDMENTS: This Agreement may be amended provided such amendment is in writing by the signatories hereto, and receives approval from EOCD prior to its effective date.

8.5. NON-DISCRIMINATION: The Consultant shall adhere to the requirements set forth in Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the regulations issued pursuant thereto by HUD (24 CFR Part 1); Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), as amended; section 109 of the Housing and Community Development Act of 1974, and the HUD regulations issued pursuant thereto (24 CFR 570.601); Federal Executive Order 11063, as amended by Executive Order 12259 and the HUD regulations issued pursuant thereto (24 CFR 107); The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Section 402 of the Veterans of the Vietnam Era Act (for projects of \$10,000 or more); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); Massachusetts General Laws Chapter 151B Section 1 et seq.; State Executive Order 74, as amended and revised by Executive Orders 116, 143 and 227; and EOCD regulations, procedures or guidelines.

The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, or national origin. The Consultant shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The Consultant shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap or national origin.

8.6. **PROCUREMENT STANDARDS:** The Consultant shall adhere to the requirements set forth in OMB Circular A-102 and EOCD regulations, procedures and guidelines with respect to standards governing procurement, and any applicable provisions of State laws and regulations relative thereto, including but not limited to: Massachusetts General Laws Chapter 7, section 30B et seq.; Chapter 30, section 39M; Chapter 149, sections 44A through 44L; and Chapter 484 of the Acts of 1984. All procurement transactions without regard to dollar value shall be conducted in a manner that provides maximum free and open competition. It is national and state policy that the recipient take affirmative steps to award a fair share of contracts taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. The Consultant shall maintain records sufficient to detail the process for procurement.

8.7. **EMPLOYMENT OPPORTUNITIES:** The Consultant shall comply with provisions of Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u) and the HUD regulations issued pursuant thereto (24 U.S.C. 135), which shall serve as guidance for the implementation of said section.

8.8. **FAIR HOUSING:** In addition to the laws and regulations set forth herein with respect to ensuring fair housing opportunities, the Consultant shall adhere to the provisions of State Executive Orders 215 and 227.

8.9. **LABOR STANDARDS:** Where applicable, the Consultant shall adhere to the provisions of section 110 of the Act, and the Massachusetts General Laws Chapter 149 sections 26 to 27D inclusive (as amended by Chapter 484 of the Acts of 1984). In the case of the rehabilitation of commercial property, or rehabilitation of residential property designed for residential use of eight or more families, the Consultant shall adhere to the Federal Labor Standards Provisions (HUD Handbook 1344.1), the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) and the Copeland Anti-Kickback Act.

8.10. **CONFLICT OF INTEREST** The Consultant shall adhere to the mandates of the Massachusetts Conflict of Interest Statute M.G.L., C. 268A, and the federal Hatch Act, 5U.S.C., ss 1501 et seq.

8.11. **COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS, AND EOCD REGULATIONS, PROCEDURES, AND GUIDELINES:** All activities authorized by this agreement shall be subject to and performed in accordance with the provisions of the City/Town's FY 1986 MSCP Grant Agreement with EOCD and all its attachments (including, where relevant, Section 4.14, Flood Disaster Protection, 4.15, Historic Preservation, 4.16, Additional Environmental Requirements, 4.17, Lead Paint Hazards, and 4.18, Relocation Assistance), all applicable federal, state, and local laws and regulations, including but not limited to those specifically stated herein, and any applicable regulations issued by HUD published in 24 CFR Part 570, as may be amended from time to time, and any regulations, procedures, or guidelines as may be established or amended by EOCD for the Massachusetts Small Cities Program.

9. **AVAILABILITY OF FUNDS:** The compensation provided by this agreement is subject to the continued availability of federal funds for the Massachusetts Small Cities Program, and to the continued eligibility of the Commonwealth and the City/Town to receive such funds.

10. INDEMNIFICATION: The Consultant shall indemnify, defend, and hold the City/Town harmless from and against any and all claims, demand, liabilities, actions, causes of actions, cost and expenses caused by or arising out of the Consultant's breach of this agreement or the negligence or misconduct of the Consultant, or the Consultant's agents or employees.

11. LICENSES: The Consultant shall procure and keep current any licenses, certifications, or permits required for any activity to be undertaken as part of the Scope of Services, Attachment A, as required by federal, state, or local laws or regulations, and shall comply with the provisions of OMB Circular A-102 with respect to any bonding or other insurance requirements.

12. CONFIDENTIALITY: The Consultant will protect the privacy of, and respect the confidentiality of information provided by, program participants, consistent with applicable federal and state regulations, including M.G.L., C. 66, section 10, regarding access to public records.

13. COPYRIGHT: No material prepared in whole or in part under this agreement shall be subject to copyright in the United States of America or in any other country except with the prior written approval of EOCD.

14. CLOSEOUT: The Consultant shall follow such policies and procedures with respect to closeout of any associated grant as may be required by EOCD.

15. SEVERABILITY: If any provision of this agreement is held invalid, the remainder of the agreement shall not be affected thereby, and all other parts of this agreement shall nevertheless be in full force and effect.

IN WITNESS THEREOF, the CITY/TOWN and the CONSULTANT have executed this AGREEMENT under seal in triplicate as of the date above written.

The City/Town of

ATTEST: _____

By: _____

Title: _____ Date: _____

and

The Consultant:

ATTEST: _____

By: _____

Title: _____ Date: _____

APPENDIX #3

SAMPLE SCOPE OF SERVICES
EXAMPLE A

The following outlines a Scope of Management Services which XYZ, Inc. (the Consultant) will perform as administering agent for the Housing Rehabilitation Component of the City/Town's FY 1986 Small Cities program. The basic objective of the Consultant's efforts will be the completion of the rehabilitation of 40 eligible housing units, per the City/Town's approved FY 1986 HUD application, unless this goal is amended through the mutual agreement of the City/Town, EOCD, and the Consultant. Towards this goal, the major activities which the consultant will perform will include:

- 1) Refinement of program plans, procedures and forms: in coordination with the City/Town, the Consultant will establish, or make any necessary revisions to, the Housing Rehab program design and procedures (including but not limited to the structure of financial assistance, re-capture/rental agreement policies and procedures, and priorities among applicants), as well as any necessary forms or sample contracts (between applicant and City/Town, or applicant and contractors).
- 2) Outreach: with the assistance of the City/Town, the Consultant will conduct sufficient advertisement of the program, and other forms of outreach, to ensure that enough eligible applicants participate in the program to meet the FY 1986 Housing Rehab goal of 40 completed units.
- 3) Intake/Assessment of Eligibility: the Consultant's staff will assist residents or property owners in the completion of applications/income documentation, and will verify the eligibility of such applicants for assistance based upon criteria and policies established by the City/Town, EOCD, and HUD. In the event of applicants who have impaired mobility, the Consultant will make provisions for completing the application at the applicant's residence or other acceptable procedures for ensuring equal access to services.
- 4) Work write-ups: for each eligible unit to be assisted, the Consultant's staff will complete a detailed work write-up of the work to be done, including estimated costs of each activity, materials to be used, and industry or regulatory standards to be met.
- 5) Bank financing: for those applicants who will be securing some of the financing for the rehab work through private loans from a bank or other financial institution, the Consultant will assist such applicants whenever appropriate in applying for such complementary financing.
- 6) Solicitation and Selection of Contractors: the Consultant will assist approved applicants in the identification, proper solicitation, and selection of contractors qualified to perform the authorized rehabilitation of eligible housing units. The Consultant will provide forms for the applicant to use in contracting with the contractors, and will assist the applicant in ensuring that the description of the work to be performed that is contained in such contracts is adequate.
- 7) Periodic and final inspections: the Consultant will perform periodic site visits to ascertain that approved and contracted rehab work is proceeding properly and satisfactorily, and will authorize (with the owner's written approval) any change orders, and will mediate in the event of owner dissatisfaction with the work done by the contractor.

APPENDIX #3 -- EXAMPLE A (continued)

- 8) Verification of contractor payment requests: as rehab is completed and bill submitted by contractors, the Consultant will forward such bills to the City/Town Community Development office on a timely basis, along with written certification that the work has been satisfactorily completed and been signed-off by the property owner.
- 9) Maintenance of case files and other records: for each applicant, the Consultant will maintain case files including application and documentation of eligibility, work write-up, agreement between owner and City/Town, contractor selection criteria, agreement between owner and contractor(s), all necessary licenses and permit documentation, result of site visits, change orders, and approved invoices for payment (with owner sign-off). The Consultant will also maintain any other general program files required by State or federal regulation.

XYZ, Inc. Staff Assigned to Project

Staff member/Title:	General duties:	Time allocation:
John Doe/Project Mgr.	Revision of forms/procedures, general oversight/adm., approval of contractor selection, submission of approved contractor invoices	10 hrs/week min.
Jane Smith/Asst. Mgr.	Revision of forms/procedures, outreach, intake, solicitation of contractors, supervision of Rehab Specialist	30 hrs/week min.
Harold Baker/Rehab Specialist	Work write-ups, inspections	25 hrs/week
Alice Glass/Bookkeeper	Financial records	5 hrs/week

Timetable for Completion of Activities

Unless amended by mutual agreement of the City/Town, EOCD, and the Consultant, XYZ, Inc. will perform the described Housing Rehab activities and complete the rehab of eligible units in conformance with the Program Implementation Plan submitted by the City/Town and approved by EOCD.

EXAMPLE B
SAMPLE SCOPE OF MANAGEMENT
SERVICES
GENERAL ADMINISTRATION START-UP AND HOUSING REHABILITATION PLANNING

The following outlines a scope of professional consulting services that _____ believes is appropriate and necessary in assisting the town of _____ in its proposed 1986 Massachusetts Small Cities Program. As necessary, these services may be modified or clarified in the contractual agreement, should this proposal be accepted by the town.

I. General Professional Services

- A. Assist the town in the recruitment of required program staff.
- B. Provide ongoing assistance in staff development, training and increased grant management capacity.
- C. Provide assistance as may be needed, to meet requirements of other state agencies such as EOE, DEQ, MCAD, etc.
- D. Provide assistance, as specifically directed, on various local development and planning activities which relate to the Massachusetts Small Cities Program goals and objectives.

II. Overall Grant Management Start-up

- A. Assist the town in establishing proper financial management, budgeting and recordkeeping procedures.
- B. Complete Environmental Review Requirements
 - 1. Establish Environmental Review Record (ERR) file.
 - 2. Comply with 24 CFR 58, NEPA and MEPA.
 - 3. Prepare and obtain any needed notifications, advertisements and clearances.
 - 4. Conduct necessary steps leading to release of funds.
- C. Organize recordkeeping files to comply with state regulations governing project compliance procedures for housing rehabilitation

III. Assistance in Project Activity Implementation

- A. Prepare Housing Rehabilitation Plan which includes:
 - 1. Program Design
 - 2. Structure of Financial Assistance
 - 3. Processing Procedures
 - 4. Policies

5. Program Case File Forms

6. Grievance Procedures

B. Submit plan to town officials and designees for review, comment, revision and approval.

C. Conduct and complete financial negotiations with banks.

1. Negotiate lump sum drawdown.

a. Request proposals from interested banks.

b. Meet with banks to discuss requirements.

c. Present findings to town

d. Develop necessary reporting procedures.

2. Negotiate low interest loan/loan guarantee agreements.

a. Solicit banks' interest in financing mechanism.

b. Meet with banks to discuss requirements.

c. Establish working procedures.

3. Negotiate other financial/lending terms to support program financial assistance objectives.

4. Assist community development office in developing plan for reprogramming loan repayments to support local community and economic development goals.

Note to MSCP Grantees: As in Example A, you should also consider adding sections to the Scope of Services which will specify the personnel or other resources which the consultant will be devoting to the project, the timetable for completion of the above-specified activities, and (if not included in the Compensation section) the estimated cost for completion of each of the above activities.

APPENDIX #4
SAMPLE
METHOD AND SCHEDULE
FOR COMPENSATION

The City/Town will pay XYZ, Inc. \$50,000 for administration of the Housing Rehabilitation component of the City/Town's FY 1986 Small Cities program for the program year ending January 31, 1988. Should any extension beyond that date be agreed to as a Grant Agreement by EOCD, XYZ, Inc. will, with the City/Town's concurrence, continue to provide the services under this contract as long as such Grant Agreement remains in effect. Payment to XYZ, Inc. will be as specified below:

- a.) For start-up activities, through _____, XYZ, Inc. may bill the City/Town for actual hours of staff time expended on behalf of the Town in implementation of the Housing Rehabilitation component up to a maximum of 20% of the overall compensation available under this contract, or \$10,000. This billing will be based upon an hourly rate of _____.
- b.) For the remainder of the term of this contract, XYZ, Inc. will bill the City/Town based upon the completion of approved re in eligible units, at the rate of \$1,000 per completed unit, as certified in writing by XYZ, Inc. (\$40,000 balance ÷ 40 unit goal = \$1000/unit).
- c.) The total which may be billed to the City/Town by XYZ, Inc. shall not exceed \$50,000 for the completion of the City/Town's FY 1986 MSCP Housing Rehab program.

Note to MSCP Grantees: You may also want to consider including language about how compensation for partially completed work will be handled in the event of grant or contract termination.



Informational GUIDELINE Release

Commissioner Ira A. Jackson

Deputy Commissioner Edward J. Collins, Jr.

rec'd 7/24/85
→

Bureau of Accounts

Informational Guideline Release (IGR) No. 85-103

July 1985

PENSION CHARGES TO FEDERAL GRANTS

Chapter 661 of the Acts of 1983

Treasurers of governmental units are now required to charge federal grants for pension costs of all active members of a retirement system whose salaries are paid from the grants. This IGR explains the requirements and the procedures to be followed.

Topical Index Key:

Pension Costs
Treasurers and Collectors:
Responsibilities/Procedures

Distribution:

Selectmen/Mayors
Managers
Treasurers
Accountants
Finance Committees
School Superintendents



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES

Ira A. Jackson
COMMISSIONER

EDWARD J. COLLINS, JR.
DEPUTY COMMISSIONER

BUREAU OF ACCOUNTS
INFORMATIONAL GUIDELINE

RELEASE NO. 85-103

SUBJECT:

PENSION CHARGES TO

FEDERAL GRANTS

Page 1 of 3

PENSION CHARGES TO FEDERAL GRANTS

Chapter 35, Section 32A of the General Laws
Chapter 40, Section 5D of the General Laws

SUMMARY:

County, municipal, and district treasurers are now required to make provisions for charging federal grants for pension costs of all active members of a retirement system whose salaries are paid from these grants. This charge is separate from the member's mandatory contribution, which will continue.

Chapter 661 of the Acts of 1983, which amends G.L. Ch. 35, S. 32A, and G.L. 40, S. 5D, requires that all federal grants received by local governments be charged for pension costs incurred because of such grant.

The Division of Public Employee Retirement Administration (PERA) has determined that the appropriate charge for all grants is three percent of total grant salaries to be paid during the remainder of this fiscal year. These charges should be made beginning October 1, 1985.

GUIDELINES:

1. At the commencement of every fiscal year (but no later than July 31st), each spending agency of cities, towns, districts and counties must authorize the treasurer to initiate procedures to transfer pension costs from federal grants.
2. Employees responsible for administering federal grants should notify their accountant/auditor and treasurer to make pension cost transfers from all federal grants effective beginning October 1, 1985.
3. All transfers should be made on a timely basis and as close to the dates of payroll distributions for these federal grants as is reasonably possible and in accordance with the local government's normal withholding policies and procedures.

FISCAL SERVICES SECTION -

Kenneth A. Marchurs, Director of Accounts
HAROLD J. REGAN, JR., Deputy Director

4. All pension costs so recovered from grants must be deposited in a Pension Reserve Fund which is in the custody of the appropriate local retirement board.
5. Each transfer of funds must be accompanied by supporting documentation which details each employee and the respective amounts and period of time which the charge and transfer represents. Copies of all documentation supporting these pension charges to grants should also be maintained by the county, municipality and district.
6. All local retirement boards have the responsibility to maintain financial information which is adequate to justify and support the recovery of pension costs from federal grants. PERA will issue guidelines to all local retirement systems on the nature and extent of the documentation necessary to support these charges.
7. For any federally-funded educational grants received through the Massachusetts Department of Education, pension costs of employees who are members of the State Teachers' Retirement System will be deducted by the Department of Education prior to receipt of grant funds at the local level. All other employees whose salaries are funded by these federal education grants received through the Department of Education must be considered in pension cost transfers to the local retirement system.
8. The initial charge of three percent should continue for the nine month period ending June 30, 1986. PERA is estimating that for the two fiscal years beginning July 1, 1986 and July 1, 1987 the appropriate charge to federal grants for pension costs will be six percent and nine percent of grant salaries, respectively. Grant administrators should plan their budgets accordingly.

Any questions concerning these provisions of Chapter 661 should be directed to:

Public Employee Retirement Administration:

Richard Stanton (617) 727-9380

Department of Revenue, Bureau of Accounts:

Kenneth Marchurs (617) 727-4401

ACME
BOOKBINDING CO., INC.

NOV 28 1993

100 CAMBRIDGE STREET
CHARLESTOWN, MASS

